

AMENDED IN ASSEMBLY APRIL 16, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2398

**Introduced by Assembly Member Hueso
(Principal coauthor: Assembly Member Huffman)**

February 24, 2012

An act to amend Section 6103.4 of, and to repeal Article 10.9 (commencing with Section 65601) of Chapter 3 of Division 1 of Title 7 of, the Government Code, to amend Sections 28, 5410, 5411, and 5411.5 of, to add Chapter 20 (commencing with Section 26300) to Division 20 of, and to repeal Section 116815 of, the Health and Safety Code, *to add Section 21080.43 to the Public Resources Code*, to amend Section 1502 of the Public Utilities Code, and to amend Sections 1058.5, 10616.5, 13050, 13167.5, 13260, 13263, ~~and 13271, and 13276 of, to~~ *add Section 10781.1 to*, to add Division 8 (commencing with Section 18000) to, to repeal Section 18034 of, to repeal Chapter 6 (commencing with Section 460) of Division 1 of, to repeal Chapter 7.3 (commencing with Section 13560) and Chapter 7.5 (commencing with Section 13575) of, ~~to repeal and add Section 10781 of~~, and to repeal and add Chapter 7 (commencing with Section 13500) of Division 7 of, the Water Code, relating to water recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 2398, as amended, Hueso. Water recycling.

Existing law establishes the State Water Resources Control Board (state board) and the California regional water quality control boards as the principal state agencies with authority over matters relating to

water quality. Existing law requires the State Department of Public Health (department) to adopt uniform water recycling criteria for indirect potable water reuse for groundwater recharge, as defined, by December 31, 2013. Existing law requires the department to develop and adopt uniform water recycling criteria for surface water augmentation, as defined, by December 31, 2016, if a specified expert panel convened by the department finds that the criteria would adequately protect public health. Existing law requires the department to investigate the feasibility of developing uniform water recycling criteria for direct potable reuse, as defined, and to provide a final report on that investigation to the Legislature by December 31, 2016. Existing law requires the department, in consultation with the state board, to report to the Legislature from 2011 to 2016, inclusive, as part of the annual budget process, on the progress towards developing and adopting the water recycling criteria for surface water augmentation and its investigation of the feasibility of developing water recycling criteria for direct potable reuse. Existing law requires the state board to enter into an agreement with the department to assist in implementing the water recycling criteria provisions.

This bill would enact the Water Recycling Act of 2012 to revise and consolidate those and other provisions relating to recycled water, and make other conforming changes to existing law. The act would establish a statewide goal to recycle a total of 1.5 million acre-feet of water per year by the year 2020 and 2.5 million acre-feet of water per year by the year 2030. The act would require the state board and regional boards, the department, the Public Utilities Commission, the Department of Water Resources, and other state agencies to exercise the authority and discretion granted to them by the Legislature to encourage the use of recycled water and meet the goals of the act. The act would require the department, on or before December 31, 2013, to adopt drinking water criteria for groundwater recharge projects utilizing recycled water. The bill would require the department, on or before December 31, 2016, to develop and adopt drinking water criteria for the use of advanced treated purified water for raw water augmentation projects not subject to the drinking water criteria for groundwater recharge projects utilizing recycled water. The act would subject those criteria to review by an expert panel convened and administered by the department to advise the department on public health issues and scientific and technical matters. The act would prescribe the types and contents of permits for recycled water to be issued by the state board or a regional board, as

appropriate. Because certain reports submitted as part of the permit application process would be submitted under penalty of perjury, this bill would impose a state-mandated local program by creating a new crime. The act would establish the Water Recycling Research Fund and require that certain civil penalties be deposited into the fund, to be expended by the state board, upon appropriation by the Legislature, to conduct or fund research necessary to support the continued and safe use of recycled water in the state.

The bill would also authorize the department to issue permits in accordance with prescribed procedures for raw water augmentation projects to specified entities, and permits for treated water augmentation projects to public water systems. The bill would subject permittees to filing and permit fees established by the department. Revenues from those fees would be required to be deposited in the Augmentation Permit Fund, which the bill would create. The money in the fund would be available, upon appropriation by the Legislature, solely for the purposes of the permit program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6103.4 of the Government Code is
- 2 amended to read:
- 3 6103.4. Section 6103 does not apply to any fee or charge for
- 4 official services required by Part 5 (commencing with Section
- 5 4999) of Division 2, Division 7 (commencing with Section 13000),
- 6 or Division 8 (commencing with Section 18000), of the Water
- 7 Code.
- 8 SEC. 2. Article 10.9 (commencing with Section 65601) of
- 9 Chapter 3 of Division 1 of Title 7 of the Government Code is
- 10 repealed.
- 11 SEC. 3. Section 28 of the Health and Safety Code is amended
- 12 to read:

28. For the purposes of this code, “recycled water” or “reclaimed water” has the same meaning as “recycled water” as defined in subdivision (n) of Section 13050 of the Water Code.

SEC. 4. Section 5410 of the Health and Safety Code is amended to read:

5410. As used in this chapter:

(a) “Waste” includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature.

(b) “Person” as used in this article also includes any city, county, district, the state or any department or agency thereof.

(c) “Waters of the state” means any water, surface or underground, including saline waters, within the boundaries of the state.

(d) “Contamination” means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. “Contamination” shall include any equivalent effect resulting from the disposal of waste, whether or not waters of the state are affected.

(e) “Pollution” means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects: (1) such waters for beneficial uses, or (2) facilities which serve such beneficial uses. “Pollution” may include “contamination.”

(f) “Nuisance” means anything which: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and (3) occurs during, or as a result of, the treatment or disposal of wastes.

(g) “Regional board” means any California regional water quality control board created pursuant to Section 13201 of the Water Code.

SEC. 5. Section 5411 of the Health and Safety Code is amended to read:

5411. A person shall not discharge sewage or other waste, or the effluent of treated sewage or other waste, in any manner that will result in contamination, pollution or a nuisance. This section does not apply to the use of recycled water, as defined in Section 18005 of the Water Code, and in accordance with the requirements of the Water Recycling Act of 2012 (Division 8 (commencing with Section 18000) of the Water Code) or the requirements of this division.

SEC. 6. Section 5411.5 of the Health and Safety Code is amended to read:

5411.5. (a) Any person who, without regard to intent or negligence, causes or permits any sewage or other waste, or the effluent of treated sewage or other waste to be discharged in or on any waters of the state, or discharged in or deposited where it is, or probably will be, discharged in or on any waters of the state, as soon as that person has knowledge of the discharge, shall immediately notify the local health officer or the director of environmental health of the discharge.

(b) Any person who fails to provide the notice required by this section is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or imprisonment for less than one year, or both the fine and imprisonment.

(c) The notification required by this section shall not apply to a discharge authorized by law and in compliance with waste discharge requirements or other requirements established by the appropriate regional water quality control board or the State Water Resources Control Board.

(d) This section does not apply to the use of recycled water, as defined in Section 18005 of the Water Code, and in accordance with the requirements of the Water Recycling Act of 2012 (Division 8 (commencing with Section 18000) of the Water Code) or the requirements of this division.

SEC. 7. Chapter 20 (commencing with Section 26300) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 20. GROUNDWATER AQUIFER RECHARGE

26300. The Legislature finds and declares the following:

1 (a) Advanced treated purified water is being used to recharge
2 groundwater aquifers in California through direct injection of the
3 aquifer.

4 (b) Advanced treatment facilities, operated in California, have
5 demonstrated the ability of advanced treated purified water
6 technologies to reliably produce water of a higher quality than
7 most raw surface water sources in California.

8 (c) If the planned introduction of advanced treated purified water
9 into a raw water supply can be demonstrated to be safe and feasible,
10 its use will significantly aid in achieving the state board's recycling
11 goals.

12 (d) Upon completing a rigorous review and public process for
13 determining the safety of utilizing advanced treated purified water
14 for raw water augmentation, clear authority needs to be established
15 for the permitting of such a project.

16 (e) This chapter is not intended to delay, invalidate, or reverse
17 any study or project, or development of regulations by the
18 department regarding the use of recycled water for potable reuse.

19 26301. As used in this chapter:

20 (a) "Advanced treated purified water recharge project" means
21 a raw water augmentation project to recharge groundwater utilizing
22 advanced treated purified water.

23 (b) "Advanced treated purified water," "potable reuse," "raw
24 water," "raw water augmentation," "treated water augmentation,"
25 and ~~"uniform drinking"~~ "drinking water criteria" have the same
26 meanings as those terms are defined in Section 18005 of the Water
27 Code.

28 (c) "Fund" means the Augmentation Permit Fund created by
29 subdivision (d) of Section 26304.

30 26302. Advanced treated purified water is a source of supply
31 under Section 116550 and is not a waste under subdivision (d) of
32 Section 13050 of the Water Code or subdivision (a) of Section
33 5410.

34 26303. (a) The department may issue a permit for a raw water
35 augmentation project to a producer, wholesaler, or supplier of
36 recycled water, an entity responsible for groundwater
37 replenishment, *a public water system*, or a combination thereof.

38 (b) A permit for a treated water augmentation project may be
39 issued to a public water system.

(c) The department shall not issue a permit or amend a valid existing permit for a raw water augmentation or treated water augmentation project utilizing advanced treated purified water unless the department does all of the following:

(1) Performs an engineering evaluation that evaluates the proposed treatment technology and finds that the proposed technology will ensure that the advanced treated purified water meets the drinking water criteria established pursuant to Section 18031 of the Water Code and poses no significant threat to public health. The department may require the submission of a preconstruction report for the purpose of determining compliance with the drinking water criteria.

(2) Consults with the state board or regional board regarding the consistency of the project with the applicable water quality control plan and other applicable plans and policies.

(3) Holds at least one duly noticed public hearing in the area where the advanced treated purified water is proposed to be used or supplied for human consumption and receives public testimony on that proposed use. The department shall make available to the public, not less than 30 days prior to the date of the first hearing held pursuant to this subdivision, the evaluations and findings made pursuant to paragraph (1) of subdivision (c). The department shall receive and consider any written comments and public testimony regarding the issuance of the proposed permit.

(d) (1) Notwithstanding subdivision (a), at any time before the drinking water criteria are adopted pursuant to Section 18031 of the Water Code, if the department, in consultation with the regional board and after a public hearing, finds a proposed raw water augmentation project will not degrade the quality of the receiving water as a source of water supply for domestic purposes, the department may permit the advanced treated purified water recharge project on a case-by-case basis.

(2) If the department makes the finding specified in paragraph (1), the department shall consider current and potential future public health consequences of the controlled recharge before permitting the project.

26304. (a) (1) Each person who applies for a permit in accordance with subdivision (a) or (b) of Section 26303 shall pay a permit filing fee according to a fee schedule established, and

1 periodically adjusted as appropriate, by the department in
2 conformance with this section.

3 (2) The department shall provide notice and a period of at least
4 30 days for public comment prior to the adoption or adjustment
5 of any permit filing fee as described in paragraph (1). The
6 notification may be provided by mailing a draft of the proposed
7 permit filing fee to each person who has requested notice of the
8 specific item, or by posting a draft of the proposed fee on the
9 official Internet Web site maintained by the department, and
10 providing notice of that posting by electronic mail to each person
11 who has requested notice.

12 (3) Any permit filing fee adopted by the department, or
13 adjustments thereto, shall not be subject to Chapter 3.5
14 (commencing with Section 11340) of Part 1 of Division 3 of Title
15 2 of the Government Code, and shall remain in effect until revised
16 by the department.

17 (b) A fee charged pursuant to this section shall equal the amount
18 necessary to recoup the regulatory costs incurred by the department
19 in issuing a permit pursuant to subdivision (a) or (b) of Section
20 26303.

21 (c) The permit filing fee shall be paid before the department
22 may deem the application for a permit described in subdivision
23 (a) or (b) of Section 26303 to be complete.

24 (d) The permit filing fees collected pursuant to this section shall
25 be deposited in the Augmentation Permit Fund, which is hereby
26 created. The money in the fund is available for expenditure by the
27 department, upon appropriation by the Legislature, solely for the
28 purposes specified in subdivision (b).

29 26305. (a) (1) Each person who is subject to a permit as
30 described in subdivision (a) or (b) of Section 26303, or a water
31 recycling permit issued by the state board or regional board
32 pursuant to Section 18210 or 18212 of the Water Code, shall submit
33 an annual fee to the department according to a fee schedule
34 established, and periodically adjusted as appropriate, by the
35 department in conformance with this section.

36 (2) The department shall establish, by regulation, a timetable
37 for payment of the annual fee.

38 (3) The department shall provide notice and a period of at least
39 30 days for public comment prior to the adoption or adjustment
40 of any annual fee, as described in paragraph (1), or timetable, as

1 described in paragraph (2). The notification may be provided by
2 mailing a draft of the proposed fee or timetable, as applicable, to
3 each person who has requested notice of the specific item, or by
4 posting a draft of the proposed fee or timetable, as applicable, on
5 the official Internet Web site maintained by the department, and
6 providing notice of that posting by electronic mail to each person
7 who has requested notice.

8 (4) Any annual fee or timetable adopted by the department, or
9 adjustments thereto, shall not be subject to the requirements of
10 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
11 3 of Title 2 of the Government Code, and shall remain in effect
12 until revised by the department.

13 (b) The total amount of annual fees collected pursuant to this
14 section shall equal that amount necessary to recoup the recoverable
15 costs, as described in subdivision (c) of this section, incident to
16 performing the necessary investigations, inspections, and audits
17 for permits for the use of advanced treated purified water and the
18 administrative enforcement and adjudication of those permits, and
19 consultation with the state board or regional board regarding
20 permits issued by the state board or a regional board pursuant to
21 Section 18210 or 18212 of the Water Code.

22 (c) Recoverable costs include those costs incurred by the
23 department in reviewing monitoring reports; prescribing permit
24 terms and monitoring requirements; enforcing and evaluating
25 compliance with permits; analyzing laboratory samples; reviewing
26 documents prepared for the purpose of regulating permits for the
27 use of advanced treated purified water; and administrative costs
28 incurred in connection with carrying out these actions.

29 (d) The fees collected pursuant to this section shall be deposited
30 in the Augmentation Permit Fund.

31 SEC. 8. Section 116815 of the Health and Safety Code is
32 repealed.

33 SEC. 9. Section 21080.43 is added to the Public Resources
34 Code, to read:

35 21080.43. (a) This division does not apply to any project that
36 involves only the repiping, redesign, or use of recycled water for
37 irrigation of residential landscaping, floor trap priming cooling,
38 towers, air-conditioning devices, or toilet and urinal flushing in
39 structures necessary to comply with a requirement prescribed by

1 *a public agency under Section 18041, 18042, or 18043 of the Water*
2 *Code.*

3 *(b) The exemption in subdivision (a) does not apply to any*
4 *project to develop recycled water, to construct conveyance facilities*
5 *for recycled water, or any other project not specified in subdivision*
6 *(a).*

7 ~~SEC. 9.~~

8 *SEC. 10.* Section 1502 of the Public Utilities Code is amended
9 to read:

10 1502. (a) As used in this chapter, “political subdivision” means
11 a county, city and county, city, municipal water district, county
12 water district, irrigation district, public utility district, California
13 water district, or any other public corporation.

14 (b) As used in this chapter, “service area” means an area served
15 by a privately owned public utility in which the facilities have
16 been dedicated to public use and in which territory the utility is
17 required to render service to the public.

18 (c) As used in this chapter, “operating system” means an
19 integrated water system for the supply of water to a service area
20 of a privately owned public utility.

21 (d) As used in this chapter, “private utility” means a privately
22 owned public utility providing a water service.

23 (e) As used in this chapter, “type of service” means, among
24 other things, domestic, commercial, industrial, fire protection,
25 wholesale, or irrigation service.

26 (f) As used in this chapter, “reclaimed water” means recycled
27 water as defined in Section 13050 of the Water Code.

28 (g) As used in this chapter, “private use” means an entity’s use
29 of its own reclaimed water.

30 ~~SEC. 10.~~

31 *SEC. 11.* Chapter 6 (commencing with Section 460) of Division
32 1 of the Water Code is repealed.

33 ~~SEC. 11.~~

34 *SEC. 12.* Section 1058.5 of the Water Code is amended to read:

35 1058.5. (a) This section applies to any emergency regulation
36 adopted by the board for which the board makes both of the
37 following findings:

38 (1) The emergency regulation is adopted to prevent the waste,
39 unreasonable use, unreasonable method of use, or unreasonable

1 method of diversion, of water, to promote water recycling, or to
2 promote water conservation.

3 (2) The emergency regulation is adopted in response to
4 conditions which exist, or are threatened, in a critically dry year
5 immediately preceded by two or more consecutive dry or critically
6 dry years.

7 (b) Notwithstanding Sections 11346.1 and 11349.6 of the
8 Government Code, any findings of emergency adopted by the
9 board, in connection with the adoption of an emergency regulation
10 to which this section applies, are not subject to review by the Office
11 of Administrative Law.

12 (c) Any emergency regulation adopted by the board to which
13 this section applies may remain in effect for up to 270 days, as
14 determined by the board, and is deemed repealed immediately
15 upon a finding by the board that due to changed conditions it is
16 no longer necessary for the regulation to remain in effect.

17 ~~SEC. 12.~~

18 ~~SEC. 13.~~ Section 10616.5 of the Water Code is amended to
19 read:

20 10616.5. "Recycled water" has the same meaning as defined
21 in subdivision (n) of Section 13050.

22 ~~SEC. 13.~~ Section 10781 of the Water Code is repealed.

23 ~~SEC. 14.~~ Section 10781 is added to the Water Code, to read:

24 10781. The Legislature finds and declares the following:

25 (a) ~~Development of dependable and scientifically valid~~
26 ~~information in a cost-effective manner regarding monitoring of~~
27 ~~the state's groundwater supplies is critical to the future~~
28 ~~management of local groundwater supplies for public health and~~
29 ~~safety.~~

30 (b) ~~The state board adopted the Recycled Water Policy~~
31 ~~(Resolution 2009-0011) in order to increase sustainable local water~~
32 ~~supplies available for meeting existing and future beneficial uses~~
33 ~~by increasing the acceptance and use of recycled water to recharge~~
34 ~~local groundwater basins.~~

35 (c) ~~The Recycled Water Policy calls for development of salt~~
36 ~~and nutrient management plans for groundwater basins and~~
37 ~~subbasins throughout the state within five years. As part of these~~
38 ~~salt and nutrient management plans, the state board requires~~
39 ~~monitoring of emerging constituents and constituents of emerging~~
40 ~~concern (emerging constituents). The state board intends to~~

1 incorporate these plans and emerging constituent monitoring
2 requirements into its regional water quality control plans as part
3 of the implementation plans, pursuant to Section 13242.

4 (d) To ensure the development of dependable, scientifically
5 valid data regarding the presence of emerging constituents in
6 groundwater throughout the state, monitoring for emerging
7 constituents shall be included in the Groundwater Ambient
8 Monitoring and Assessment Program rather than in salt and nutrient
9 management plans.

10 SEC. 15. Section 10781.1 is added to the Water Code, to read:

11 10781.1. In order to improve comprehensive groundwater
12 monitoring and increase the availability to the public of information
13 about groundwater contamination, the state board shall do all of
14 the following:

15 (a) In consultation with other responsible agencies, as specified
16 in subdivision (c), integrate existing monitoring programs and
17 design new program elements as necessary to establish a
18 comprehensive monitoring program capable of assessing each
19 groundwater basin in the state through direct and other statistically
20 reliable sampling approaches. The interagency task force
21 established pursuant to subdivision (c) shall determine the
22 constituents to be included in the monitoring program. In designing
23 the comprehensive monitoring program, the state board, among
24 other things, shall integrate projects established in response to the
25 Supplemental Report of the 1999 Budget Act, strive to take
26 advantage of and incorporate existing data whenever possible, and
27 prioritize groundwater basins that supply drinking water.

28 (b) The state board shall determine the emerging constituents
29 to be monitored consistent with the recommendations of the
30 advisory panel pursuant to the Recycled Water Policy (Resolution
31 2009-0011). The interagency task force established pursuant to
32 subdivision (c) shall determine the other constituents, other than
33 emerging constituents, to be included in the monitoring program.
34 Monitoring required pursuant to this subdivision shall replace all
35 required monitoring of emerging constituents by local entities
36 implementing water supply management in the state's groundwater
37 basins pursuant to salt and nutrient management plans or regional
38 water quality control plans, required pursuant to the state board's
39 Recycled Water Policy (Resolution 2009-0011) and regional water
40 quality control plans under Article 3 (commencing with Section

1 ~~13242). The state and regional boards shall rely on this statewide~~
2 ~~database of ambient groundwater quality to the extent practicable.~~

3 ~~(e) (1) Create an interagency task force for all of the following~~
4 ~~purposes:~~

5 ~~(A) Identifying actions necessary to establish the monitoring~~
6 ~~program.~~

7 ~~(B) Identifying measures to increase coordination among state~~
8 ~~and federal agencies that collect information regarding groundwater~~
9 ~~contamination in the state.~~

10 ~~(C) Designing a database capable of supporting the monitoring~~
11 ~~program that is compatible with the state board's geotracker~~
12 ~~database.~~

13 ~~(D) Assessing the scope and nature of necessary monitoring~~
14 ~~enhancements.~~

15 ~~(E) Identifying the cost of any recommended measures.~~

16 ~~(F) Identifying the means by which to make monitoring~~
17 ~~information available to the public.~~

18 ~~(2) The interagency task force shall consist of a representative~~
19 ~~of each of the following entities:~~

20 ~~(A) The state board.~~

21 ~~(B) The department.~~

22 ~~(C) The State Department of Public Health.~~

23 ~~(D) The Department of Pesticide Regulation.~~

24 ~~(E) The Department of Toxic Substances Control.~~

25 ~~(F) The Department of Food and Agriculture.~~

26 ~~(d) Convene an advisory committee to the interagency task~~
27 ~~force, with a membership that includes all of the following:~~

28 ~~(1) Two representatives of appropriate federal agencies, if those~~
29 ~~agencies wish to participate.~~

30 ~~(2) Two representatives of public water systems, one of which~~
31 ~~shall be a representative of a retail water supplier.~~

32 ~~(3) Two representatives of environmental organizations.~~

33 ~~(4) Two representatives of the business community.~~

34 ~~(5) One representative of a local agency that is currently~~
35 ~~implementing a plan pursuant to Part 2.75 (commencing with~~
36 ~~Section 10750).~~

37 ~~(6) Two representatives of agriculture.~~

38 ~~(7) Two representatives from groundwater management entities.~~

1 ~~(e) (1) The members of the advisory committee may receive a~~
2 ~~per diem allowance for each day's attendance at a meeting of the~~
3 ~~advisory committee.~~

4 ~~(2) The members of the advisory committee may be reimbursed~~
5 ~~for actual and necessary travel expenses incurred in connection~~
6 ~~with their official duties.~~

7 ~~SEC. 16.~~

8 ~~SEC. 14.~~ Section 13050 of the Water Code is amended to read:

9 13050. As used in this division:

10 (a) "State board" means the State Water Resources Control
11 Board.

12 (b) "Regional board" means any California regional water
13 quality control board for a region as specified in Section 13200.

14 (c) "Person" includes any city, county, district, the state, and
15 the United States, to the extent authorized by federal law.

16 (d) "Waste" includes sewage and any and all other waste
17 substances, liquid, solid, gaseous, or radioactive, associated with
18 human habitation, or of human or animal origin, or from any
19 producing, manufacturing, or processing operation, including waste
20 placed within containers of whatever nature prior to, and for
21 purposes of, disposal.

22 (e) "Waters of the state" means any surface water or
23 groundwater, including saline waters, within the boundaries of the
24 state.

25 (f) "Beneficial uses" of the waters of the state that may be
26 protected against quality degradation include, but are not limited
27 to, domestic, municipal, agricultural and industrial supply; power
28 generation; recreation; aesthetic enjoyment; navigation; and
29 preservation and enhancement of fish, wildlife, and other aquatic
30 resources or preserves.

31 (g) "Quality of the water" refers to chemical, physical,
32 biological, bacteriological, radiological, and other properties and
33 characteristics of water which affect its use.

34 (h) "Water quality objectives" means the limits or levels of
35 water quality constituents or characteristics which are established
36 for the reasonable protection of beneficial uses of water or the
37 prevention of nuisance within a specific area.

38 (i) "Water quality control" means the regulation of any activity
39 or factor which may affect the quality of the waters of the state

1 and includes the prevention and correction of water pollution and
2 nuisance.

3 (j) "Water quality control plan" consists of a designation or
4 establishment for the waters within a specified area of all of the
5 following:

6 (1) Beneficial uses to be protected.

7 (2) Water quality objectives.

8 (3) A program of implementation needed for achieving water
9 quality objectives.

10 (k) "Contamination" means an impairment of the quality of the
11 waters of the state by waste to a degree which creates a hazard to
12 the public health through poisoning or through the spread of
13 disease. "Contamination" includes any equivalent effect resulting
14 from the disposal of waste, whether or not waters of the state are
15 affected.

16 (l) (1) "Pollution" means an alteration of the quality of the
17 waters of the state by waste to a degree which unreasonably affects
18 either of the following:

19 (A) The waters for beneficial uses.

20 (B) Facilities which serve these beneficial uses.

21 (2) "Pollution" may include "contamination."

22 (m) "Nuisance" means anything which meets all of the following
23 requirements:

24 (1) Is injurious to health, or is indecent or offensive to the senses,
25 or an obstruction to the free use of property, so as to interfere with
26 the comfortable enjoyment of life or property.

27 (2) Affects at the same time an entire community or
28 neighborhood, or any considerable number of persons, although
29 the extent of the annoyance or damage inflicted upon individuals
30 may be unequal.

31 (3) Occurs during, or as a result of, the treatment or disposal of
32 wastes.

33 (n) "Recycled water" means water which, as a result of treatment
34 of waste, is suitable for a direct beneficial use or a controlled use
35 that would not otherwise occur and is therefor considered a
36 valuable resource.

37 (o) "Citizen or domiciliary" of the state includes a foreign
38 corporation having substantial business contacts in the state or
39 which is subject to service of process in this state.

40 (p) (1) "Hazardous substance" means either of the following:

1 (A) For discharge to surface waters, any substance determined
2 to be a hazardous substance pursuant to Section 311(b)(2) of the
3 Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).

4 (B) For discharge to groundwater, any substance listed as a
5 hazardous waste or hazardous material pursuant to Section 25140
6 of the Health and Safety Code, without regard to whether the
7 substance is intended to be used, reused, or discarded, except that
8 “hazardous substance” does not include any substance excluded
9 from Section 311(b)(2) of the Federal Water Pollution Control Act
10 because it is within the scope of Section 311(a)(1) of that act.

11 (2) “Hazardous substance” does not include any of the
12 following:

13 (A) Nontoxic, nonflammable, and noncorrosive stormwater
14 runoff drained from underground vaults, chambers, or manholes
15 into gutters or storm sewers.

16 (B) Any pesticide which is applied for agricultural purposes or
17 is applied in accordance with a cooperative agreement authorized
18 by Section 116180 of the Health and Safety Code, and is not
19 discharged accidentally or for purposes of disposal, the application
20 of which is in compliance with all applicable state and federal laws
21 and regulations.

22 (C) Any discharge to surface water of a quantity less than a
23 reportable quantity as determined by regulations issued pursuant
24 to Section 311(b)(4) of the Federal Water Pollution Control Act.

25 (D) Any discharge to land which results, or probably will result,
26 in a discharge to groundwater if the amount of the discharge to
27 land is less than a reportable quantity, as determined by regulations
28 adopted pursuant to Section 13271, for substances listed as
29 hazardous pursuant to Section 25140 of the Health and Safety
30 Code. No discharge shall be deemed a discharge of a reportable
31 quantity until regulations set a reportable quantity for the substance
32 discharged.

33 (q) (1) “Mining waste” means all solid, semisolid, and liquid
34 waste materials from the extraction, beneficiation, and processing
35 of ores and minerals. Mining waste includes, but is not limited to,
36 soil, waste rock, and overburden, as defined in Section 2732 of
37 the Public Resources Code, and tailings, slag, and other processed
38 waste materials, including cementitious materials that are managed
39 at the cement manufacturing facility where the materials were
40 generated.

1 (2) For the purposes of this subdivision, “cementitious material”
2 means cement, cement kiln dust, clinker, and clinker dust.

3 ~~SEC. 17.~~

4 *SEC. 15.* Section 13167.5 of the Water Code is amended to
5 read:

6 13167.5. (a) The state board or the regional board, as
7 applicable, shall provide notice and a period of at least 30 days for
8 public comment prior to the adoption of any of the following:

9 (1) Waste discharge requirements prescribed pursuant to
10 Sections 13263 or 13377.

11 (2) An order issued pursuant to Section 13320.

12 (3) A time schedule order adopted pursuant to Section 13300
13 that sets forth a schedule of compliance and required actions
14 relating to waste discharge requirements prescribed pursuant to
15 Section 13263 or 13377.

16 (b) The notification required by subdivision (a) may be provided
17 by mailing a draft of the waste discharge requirements, time
18 schedule order, or order issued pursuant to Section 13320 to each
19 person who has requested notice of the specific item, or by posting
20 a draft of the respective requirements or order on the official
21 Internet *Web* site maintained by the state board or regional board,
22 and providing notice of that posting by electronic mail to each
23 person who has requested notice.

24 (c) This section does not require the state board or the regional
25 board to provide more than one notice or more than one public
26 comment period prior to the adoption of waste discharge
27 requirements, a time schedule order, or an order issued pursuant
28 to Section 13320.

29 ~~SEC. 18.~~

30 *SEC. 16.* Section 13260 of the Water Code is amended to read:

31 13260. (a) Each of the following persons shall file with the
32 appropriate regional board a report of the discharge, containing
33 the information that may be required by the regional board:

34 (1) A person discharging waste, or proposing to discharge waste,
35 within any region that could affect the quality of the waters of the
36 state, other than into a community sewer system.

37 (2) A person who is a citizen, domiciliary, or political agency
38 or entity of this state discharging waste, or proposing to discharge
39 waste, outside the boundaries of the state in a manner that could
40 affect the quality of the waters of the state within any region.

1 (3) A person operating, or proposing to construct, an injection
2 well.

3 (b) No report of waste discharge need be filed pursuant to
4 subdivision (a) if the requirement is waived pursuant to Section
5 13269.

6 (c) Each person subject to subdivision (a) shall file with the
7 appropriate regional board a report of waste discharge relative to
8 any material change or proposed change in the character, location,
9 or volume of the discharge.

10 (d) (1) (A) Each person who is subject to subdivision (a) or
11 (c) shall submit an annual fee according to a fee schedule
12 established by the state board.

13 (B) The total amount of annual fees collected pursuant to this
14 section shall equal that amount necessary to recover costs incurred
15 in connection with the issuance, administration, reviewing,
16 monitoring, and enforcement of waste discharge requirements and
17 waivers of waste discharge requirements.

18 (C) Recoverable costs may include, but are not limited to, costs
19 incurred in reviewing waste discharge reports, prescribing terms
20 of waste discharge requirements and monitoring requirements,
21 enforcing and evaluating compliance with waste discharge
22 requirements and waiver requirements, conducting surface water
23 and groundwater monitoring and modeling, analyzing laboratory
24 samples, adopting, reviewing, and revising water quality control
25 plans and state policies for water quality control, and reviewing
26 documents prepared for the purpose of regulating the discharge of
27 waste, and administrative costs incurred in connection with
28 carrying out these actions.

29 (D) In establishing the amount of a fee that may be imposed on
30 a confined animal feeding and holding operation pursuant to this
31 section, including, but not limited to, a dairy farm, the state board
32 shall consider all of the following factors:

33 (i) The size of the operation.

34 (ii) Whether the operation has been issued a permit to operate
35 pursuant to Section 1342 of Title 33 of the United States Code.

36 (iii) Any applicable waste discharge requirement or conditional
37 waiver of a waste discharge requirement.

38 (iv) The type and amount of discharge from the operation.

39 (v) The pricing mechanism of the commodity produced.

1 (vi) Any compliance costs borne by the operation pursuant to
2 state and federal water quality regulations.

3 (vii) Whether the operation participates in a quality assurance
4 program certified by a regional water quality control board, the
5 state board, or a federal water quality control agency.

6 (2) (A) Subject to subparagraph (B), the fees collected pursuant
7 to this section shall be deposited in the Waste Discharge Permit
8 Fund, which is hereby created. The money in the fund is available
9 for expenditure by the state board, upon appropriation by the
10 Legislature, solely for the purposes of carrying out this division.

11 (B) (i) Notwithstanding subparagraph (A), the fees collected
12 pursuant to this section from stormwater dischargers that are
13 subject to a general industrial or construction stormwater permit
14 under the national pollutant discharge elimination system (NPDES)
15 shall be separately accounted for in the Waste Discharge Permit
16 Fund.

17 (ii) Not less than 50 percent of the money in the Waste
18 Discharge Permit Fund that is separately accounted for pursuant
19 to clause (i) is available, upon appropriation by the Legislature,
20 for expenditure by the regional board with jurisdiction over the
21 permitted industry or construction site that generated the fee to
22 carry out stormwater programs in the region.

23 (iii) Each regional board that receives money pursuant to clause
24 (ii) shall spend not less than 50 percent of that money solely on
25 stormwater inspection and regulatory compliance issues associated
26 with industrial and construction stormwater programs.

27 (3) A person who would be required to pay the annual fee
28 prescribed by paragraph (1) for waste discharge requirements
29 applicable to discharges of solid waste, as defined in Section 40191
30 of the Public Resources Code, at a waste management unit that is
31 also regulated under Division 30 (commencing with Section 40000)
32 of the Public Resources Code, shall be entitled to a waiver of the
33 annual fee for the discharge of solid waste at the waste management
34 unit imposed by paragraph (1) upon verification by the state board
35 of payment of the fee imposed by Section 48000 of the Public
36 Resources Code, and provided that the fee established pursuant to
37 Section 48000 of the Public Resources Code generates revenues
38 sufficient to fund the programs specified in Section 48004 of the
39 Public Resources Code and the amount appropriated by the
40 Legislature for those purposes is not reduced.

(e) Each person that discharges waste in a manner regulated by this section shall pay an annual fee to the state board. The state board shall establish, by regulation, a timetable for the payment of the annual fee. If the state board or a regional board determines that the discharge will not affect, or have the potential to affect, the quality of the waters of the state, all or part of the annual fee shall be refunded.

(f) (1) The state board shall adopt, by emergency regulations, a schedule of fees authorized under subdivision (d). The total revenue collected each year through annual fees shall be set at an amount equal to the revenue levels set forth in the Budget Act for this activity. The state board shall automatically adjust the annual fees each fiscal year to conform with the revenue levels set forth in the Budget Act for this activity. If the state board determines that the revenue collected during the preceding year was greater than, or less than, the revenue levels set forth in the Budget Act, the state board may further adjust the annual fees to compensate for the over and under collection of revenue.

(2) The emergency regulations adopted pursuant to this subdivision, any amendment thereto, or subsequent adjustments to the annual fees, shall be adopted by the state board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the state board, or adjustments to the annual fees made by the state board pursuant to this section, shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the state board.

(g) The state board shall adopt regulations setting forth reasonable time limits within which the regional board shall determine the adequacy of a report of waste discharge submitted under this section.

(h) Each report submitted under this section shall be sworn to, or submitted under penalty of perjury.

(i) The regulations adopted by the state board pursuant to subdivision (f) shall include a provision that annual fees shall not

1 be imposed on those who pay fees under the national pollutant
2 discharge elimination system until the time when those fees are
3 again due, at which time the fees shall become due on an annual
4 basis.

5 (j) A person operating or proposing to construct an oil, gas, or
6 geothermal injection well subject to paragraph (3) of subdivision
7 (a) shall not be required to pay a fee pursuant to subdivision (d) if
8 the injection well is regulated by the Division of Oil and Gas of
9 the Department of Conservation, in lieu of the appropriate
10 California regional water quality control board, pursuant to the
11 memorandum of understanding, entered into between the state
12 board and the Department of Conservation on May 19, 1988. This
13 subdivision shall remain operative until the memorandum of
14 understanding is revoked by the state board or the Department of
15 Conservation.

16 (k) In addition to the report required by subdivision (a), before
17 a person discharges mining waste, the person shall first submit
18 both of the following to the regional board:

19 (1) A report on the physical and chemical characteristics of the
20 waste that could affect its potential to cause pollution or
21 contamination. The report shall include the results of all tests
22 required by regulations adopted by the board, any test adopted by
23 the Department of Toxic Substances Control pursuant to Section
24 25141 of the Health and Safety Code for extractable, persistent,
25 and bioaccumulative toxic substances in a waste or other material,
26 and any other tests that the state board or regional board may
27 require, including, but not limited to, tests needed to determine
28 the acid-generating potential of the mining waste or the extent to
29 which hazardous substances may persist in the waste after disposal.

30 (2) A report that evaluates the potential of the discharge of the
31 mining waste to produce, over the long term, acid mine drainage,
32 the discharge or leaching of heavy metals, or the release of other
33 hazardous substances.

34 ~~SEC. 19.~~

35 *SEC. 17.* Section 13263 of the Water Code is amended to read:

36 13263. (a) The regional board, after any necessary hearing,
37 shall prescribe requirements as to the nature of any proposed
38 discharge, existing discharge, or material change in an existing
39 discharge, except discharges into a community sewer system, with
40 relation to the conditions existing in the disposal area or receiving

1 waters upon, or into which, the discharge is made or proposed.
2 The requirements shall implement any relevant water quality
3 control plans that have been adopted, and shall take into
4 consideration the beneficial uses to be protected, the water quality
5 objectives reasonably required for that purpose, other waste
6 discharges, the need to prevent nuisance, and the provisions of
7 Section 13241.

8 (b) A regional board, in prescribing requirements, need not
9 authorize the utilization of the full waste assimilation capacities
10 of the receiving waters.

11 (c) The requirements may contain a time schedule, subject to
12 revision in the discretion of the board.

13 (d) The regional board may prescribe requirements although no
14 discharge report has been filed.

15 (e) Upon application by any affected person, or on its own
16 motion, the regional board may review and revise requirements.
17 All requirements shall be reviewed periodically.

18 (f) The regional board shall notify in writing the person making
19 or proposing the discharge or the change therein of the discharge
20 requirements to be met. After receipt of the notice, the person so
21 notified shall provide adequate means to meet the requirements.

22 (g) No discharge of waste into the waters of the state, whether
23 or not the discharge is made pursuant to waste discharge
24 requirements, shall create a vested right to continue the discharge.
25 All discharges of waste into waters of the state are privileges, not
26 rights.

27 (h) The state board or a regional board may prescribe general
28 waste discharge requirements for a category of discharges if the
29 state board or that regional board finds or determines that all of
30 the following criteria apply to the discharges in that category:

31 (1) The discharges are produced by the same or similar
32 operations.

33 (2) The discharges involve the same or similar types of waste.

34 (3) The discharges require the same or similar treatment
35 standards.

36 (4) The discharges are more appropriately regulated under
37 general discharge requirements than individual discharge
38 requirements.

39 (i) The state board, after any necessary hearing, may prescribe
40 waste discharge requirements in accordance with this section.

1 (j) The use of recycled water, as defined in this division,
2 permitted prior to ~~December 31, 2012~~ *January 1, 2013*, utilizing
3 water recycling requirements, master recycling permits, or waste
4 discharge requirements issued pursuant to this division shall be
5 permitted in accordance with Division 8 (commencing with Section
6 18000) or Chapter 20 (commencing with Section 26300) of
7 Division 20 of the Health and Safety Code, as applicable, upon
8 expiration or modification of the water recycling requirements,
9 master recycling permits, or waste discharge requirements, or upon
10 agreement by the appropriate regional board and permitted entity,
11 whichever is sooner.

12 (k) The use of recycled water, as defined in this division,
13 permitted prior to ~~December 31, 2012~~ *January 1, 2013*, utilizing
14 water recycling requirements, master recycling permits, or waste
15 discharge requirements issued pursuant to this division shall be
16 complied with, administered, and enforced in accordance with
17 those water recycling requirements, master recycling permits, or
18 waste discharge requirements issued pursuant to this division.

19 ~~SEC. 20.~~

20 *SEC. 18.* Section 13271 of the Water Code is amended to read:

21 13271. (a) (1) Except as provided by subdivision (b), any
22 person who, without regard to intent or negligence, causes or
23 permits any hazardous substance or sewage to be discharged in or
24 on any waters of the state, or discharged or deposited where it is,
25 or probably will be, discharged in or on any waters of the state,
26 shall, as soon as (A) that person has knowledge of the discharge,
27 (B) notification is possible, and (C) notification can be provided
28 without substantially impeding cleanup or other emergency
29 measures, immediately notify the California Emergency
30 Management Agency of the discharge in accordance with the spill
31 reporting provision of the state toxic disaster contingency plan
32 adopted pursuant to Article 3.7 (commencing with Section 8574.16)
33 of Chapter 7 of Division 1 of Title 2 of the Government Code.

34 (2) The California Emergency Management Agency shall
35 immediately notify the appropriate regional board, the local health
36 officer, and the director of environmental health of the discharge.
37 The regional board shall notify the state board as appropriate.

38 (3) Upon receiving notification of a discharge pursuant to this
39 section, the local health officer and the director of environmental
40 health shall immediately determine whether notification of the

1 public is required to safeguard public health and safety. If so, the
2 local health officer and the director of environmental health shall
3 immediately notify the public of the discharge by posting notices
4 or other appropriate means. The notification shall describe
5 measures to be taken by the public to protect the public health.

6 (b) The notification required by this section shall not apply to
7 a discharge in compliance with waste discharge requirements or
8 other provisions of this division.

9 (c) Any person who fails to provide the notice required by this
10 section is guilty of a misdemeanor and shall be punished by a fine
11 of not more than twenty thousand dollars (\$20,000) or
12 imprisonment in a county jail for not more than one year, or both.
13 Except where a discharge to the waters of this state would have
14 occurred but for cleanup or emergency response by a public agency,
15 this subdivision shall not apply to any discharge to land which
16 does not result in a discharge to the waters of this state.

17 (d) Notification received pursuant to this section or information
18 obtained by use of that notification shall not be used against any
19 person providing the notification in any criminal case, except in
20 a prosecution for perjury or giving a false statement.

21 (e) For substances listed as hazardous wastes or hazardous
22 material pursuant to Section 25140 of the Health and Safety Code,
23 the state board, in consultation with the Department of Toxic
24 Substances Control, shall by regulation establish reportable
25 quantities for purposes of this section. The regulations shall be
26 based on what quantities should be reported because they may
27 pose a risk to public health or the environment if discharged to
28 groundwater or surface water. Regulations need not set reportable
29 quantities on all listed substances at the same time. Regulations
30 establishing reportable quantities shall not supersede waste
31 discharge requirements or water quality objectives adopted
32 pursuant to this division, and shall not supersede or affect in any
33 way the list, criteria, and guidelines for the identification of
34 hazardous wastes and extremely hazardous wastes adopted by the
35 Department of Toxic Substances Control pursuant to Chapter 6.5
36 (commencing with Section 25100) of Division 20 of the Health
37 and Safety Code. The regulations of the Environmental Protection
38 Agency for reportable quantities of hazardous substances for
39 purposes of the federal Comprehensive Environmental Response,
40 Compensation, and Liability Act of 1980, as amended (42 U.S.C.

1 Sec. 9601 et seq.) shall be in effect for purposes of the enforcement
2 of this section until the time that the regulations required by this
3 subdivision are adopted.

4 (f) (1) The state board shall adopt regulations establishing
5 reportable quantities of sewage for purposes of this section. The
6 regulations shall be based on the quantities that should be reported
7 because they may pose a risk to public health or the environment
8 if discharged to groundwater or surface water. Regulations
9 establishing reportable quantities shall not supersede waste
10 discharge requirements or water quality objectives adopted
11 pursuant to this division. For purposes of this section, “sewage”
12 means the effluent of a municipal wastewater treatment plant or a
13 private utility wastewater treatment plant, as those terms are
14 defined in Section 13625, except that sewage does not include
15 recycled water, as defined in Section 18005.

16 (2) A collection system owner or operator, as defined in
17 paragraph (1) of subdivision (a) of Section 13193, in addition to
18 the reporting requirements set forth in this section, shall submit a
19 report pursuant to subdivision (c) of Section 13193.

20 (g) Except as otherwise provided in this section and Section
21 8589.7 of the Government Code, a notification made pursuant to
22 this section shall satisfy any immediate notification requirement
23 contained in any permit issued by a permitting agency. When
24 notifying the California Emergency Management Agency, the
25 person shall include all of the notification information required in
26 the permit.

27 (h) For the purposes of this section, the reportable quantity for
28 perchlorate shall be 10 pounds or more by discharge to the
29 receiving waters, unless a more restrictive reporting standard for
30 a particular body of water is adopted pursuant to subdivision (e).

31 (i) Notification under this section does not nullify a person’s
32 responsibility to notify the local health officer or the director of
33 environmental health pursuant to Section 5411.5 of the Health and
34 Safety Code.

35 *SEC. 19. Section 13276 is added to the Water Code, to read:*

36 *13276. (a) Any person who, without regard to intent or*
37 *negligence, causes or permits an unauthorized discharge of 1,000*
38 *gallons or more of recycled water, as defined in subdivision (c),*
39 *in or on any waters of the state, or causes or permits an*
40 *unauthorized discharge to be discharged where it is, or probably*

1 will be, discharged in or on any waters of the state, as soon as (1)
2 that person has knowledge of the discharge, (2) notification is
3 possible, and (3) notification can be provided without substantially
4 impeding cleanup or other emergency measures, shall immediately
5 notify the appropriate regional board.

6 (b) For the purposes of this section, an unauthorized discharge
7 means a discharge not authorized by waste discharge requirements
8 pursuant to Article 4 (commencing with Section 13260), or water
9 reclamation requirements, or a master reclamation permit issued
10 pursuant to this division.

11 (c) For purposes of this section, “recycled water” means
12 “recycled water,” as defined in subdivision (n) of Section 13050,
13 which is treated at a level less than “disinfected tertiary recycled
14 water,” as defined or described by the State Department of Public
15 Health.

16 (d) The requirements in this section supplement, and shall not
17 supplant, any other provision of law.

18 ~~SEC. 21.~~

19 SEC. 20. Chapter 7 (commencing with Section 13500) of
20 Division 7 of the Water Code is repealed.

21 ~~SEC. 22.~~

22 SEC. 21. Chapter 7 (commencing with Section 13500) is added
23 to Division 7 of the Water Code, to read:

24
25 CHAPTER 7. WASTE WELLS

26
27 13500. (a) A person shall not construct, maintain, or use any
28 waste well extending to or into a subterranean water-bearing
29 stratum that is used or intended to be used as, or is suitable for, a
30 source of water supply for domestic purposes.

31 (b) As used in this chapter, “waste well” includes any hole dug
32 or drilled into the ground, used, or intended to be used for the
33 disposal of waste.

34 ~~SEC. 23.~~

35 SEC. 22. Chapter 7.3 (commencing with Section 13560) of
36 Division 7 of the Water Code is repealed.

37 ~~SEC. 24.~~

38 SEC. 23. Chapter 7.5 (commencing with Section 13575) of
39 Division 7 of the Water Code is repealed.

~~SEC. 25.~~

SEC. 24. Division 8 (commencing with Section 18000) is added to the Water Code, to read:

DIVISION 8. WATER RECYCLING

CHAPTER 1. GENERAL

Article 1. Short Title

18000. This division shall be known and may be cited as the Water Recycling Act of 2012.

Article 2. Findings and Declarations

18001. The Legislature hereby finds and declares all of the following:

(a) The State of California is subject to periodic drought conditions, and the development of traditional water resources in California has not kept pace with the state's growing population.

(b) The people of the state have a primary interest in the development of new basic water supplies, as that term is used in Chapter 5 (commencing with Section 12880) of Part 6 of Division 6, including maximizing recycled water use to supplement existing water supplies and to minimize the impacts of growing demand for new water on sensitive natural water bodies. As such, the state is to encourage development of water recycling facilities so that recycled water may be made available to help meet the water requirements of the state.

(c) Recycled water has been proven to be a safe, cost-effective, and reliable method of helping to meet California's water supply needs.

(d) A substantial portion of the future water requirements of this state may be economically met by the beneficial use of recycled water. Recycled water is a key and necessary component for California's long-term reliable water supply, and complements demand management, improvements in efficiency, and supply augmentation strategies.

(e) The benefits of using recycled water include, but are not limited to, a reduced demand for water in the Sacramento-San

1 Joaquin Delta that is otherwise needed to maintain water quality
2 and support regional economies of the state; reduced discharges
3 of waste into inland surface waters and the ocean; the enhancement
4 and protection of groundwater basins, recreation, fisheries,
5 wetlands, and riparian areas; a reduction in greenhouse gas
6 emissions; the protection of investments in agriculture, greenbelts,
7 and recreation; the provision of jobs; and enhancement of the
8 state's economy through the development and implementation of
9 recycled water projects.

10 (f) In accordance with Section 2 of Article X of the California
11 Constitution, in order to put the water resources of the state to
12 beneficial use to the fullest extent of which they are capable, the
13 use of potable water or raw water from a natural stream or water
14 course in this state is unreasonable and a waste of such water where
15 recycled water is reasonably available in accordance with this
16 division for the beneficial use to be served. Any use of recycled
17 water in lieu of water suitable for potable domestic use is, to the
18 extent of the recycled water so used, deemed to constitute a
19 reasonable beneficial use of water, and the use of recycled water
20 shall not cause any loss or diminution of any existing water right.

21 (g) The State Department of Public Health establishes uniform
22 water recycling criteria for each varying type of use of recycled
23 water where the use involves the protection of public health.

24 (h) Recycled water can be produced using different levels of
25 treatment, as necessary and appropriate for the beneficial use to
26 be made, and for the protection of public health and the
27 environment.

28 (i) The use of recycled water in accordance with this division
29 is presumed not to have adverse impacts on public health, the
30 environment, or on the protection of beneficial uses, and to meet
31 applicable water quality objectives in the basin plans adopted by
32 the state board and regional boards.

33 (j) The impoundment of recycled water can augment surface
34 storage capability, thereby increasing the quantity of recycled
35 water that can be applied to beneficial uses, and can also reduce
36 the unnecessary use of potable water to fill impoundments.

37 (k) It is the intent of the Legislature that the provisions of this
38 division shall be construed to encourage the development by local
39 public agencies and water suppliers of recycled water and its
40 potential for use as a water source consistent with the goals of

Chapter 3 (commencing with Section 10608) of Part 2.55 of Division 6.

(l) It is the intent of the Legislature to establish a clear statutory framework for the permitting and regulation of recycled water. This division shall fully cover the requirements, permitting, and enforcement applicable to recycled water other than advanced treated purified water. Advanced treated purified water, as defined in this division, shall be permitted as a source of supply in accordance with Sections 26302 and 26303 of the Health and Safety Code.

(m) The recycling of water, the supply, storage, or use of recycled water in accordance with the requirements of this division shall not be considered a discharge of waste or sewage for purposes of Section 13264 or 13271, or a nuisance, ~~except as provided in this division~~ *as defined in subdivision (m) of Section 13050.*

Article 3. Definitions

18005. As used in this division:

(a) “Advanced treated purified water” means water of wastewater origin treated with a treatment method at least as effective as membrane filtration, reverse osmosis, advanced oxidation, ~~or disinfection, and that includes~~ engineered reliability features *or other suitable treatment* as approved by the State Department of Public Health.

(b) “Advanced treated purified water recharge project” means a raw water augmentation project to recharge groundwater using surface application or direct injection of advanced treated purified water.

(c) “Customer” means a person or entity that purchases water from a retail water supplier.

(d) “Designated recycled water use area” means an area within the boundaries of the local agency that can, or may, in the future be served with recycled water in lieu of potable or raw water, including groundwater, and is so designated by the local agency.

(e) “Drinking water criteria” means the standards promulgated by the State Department of Public Health specifying the maximum levels of constituents in soil aquifer treated purified water and advanced treated purified water used for potable reuse together with means for reliably treating the recycled water, which, in the

1 judgment of the State Department of Public Health, will result in
2 drinking water that is safe for the uses to be made.

3 (f) “Entity responsible for groundwater replenishment” means
4 any person or entity authorized by statute or court order to manage
5 a groundwater basin and acquire water for groundwater
6 replenishment.

7 (g) “Groundwater recharge” means the augmentation of
8 groundwater, by natural or artificial means, with surface water or
9 recycled water.

10 (h) “Impoundment” means a facility in which recycled water is
11 stored or used for aesthetic enjoyment or landscape irrigation, or
12 which otherwise serves a similar function, and is not intended to
13 be used as part of a potable water supply.

14 (i) “Incidental runoff” means unintended minor amounts of
15 runoff from recycled water use areas, such as unintended, minimal
16 overspray from sprinklers that escapes the designated recycled
17 water use area.

18 (j) “Land use agency” means any city, county, or city and
19 county.

20 (k) “Local public agency” means a city, county, city and county,
21 district, or any other political subdivision of the state.

22 (l) “Nonpotable reuse” means the planned treatment of
23 wastewater to a quality suitable for nonpotable purposes.

24 (m) “Person” includes any individual, corporation, partnership,
25 association, city, county, district, the state, and the United States,
26 to the extent authorized by federal law.

27 (n) “Potable reuse” means the planned treatment of wastewater
28 through multiple barriers, which may include engineered treatment
29 processes or natural treatment barriers, to reliably produce a potable
30 water supply.

31 (o) “Potable water” means water that is satisfactory for drinking,
32 culinary, and domestic purposes and meets the requirements of
33 the health authority having jurisdiction.

34 (p) “Raw water” means surface water or groundwater in its
35 naturally occurring state, prior to treatment.

36 (q) “Raw water augmentation” means the planned introduction
37 of recycled water into any raw water or raw water conveyance
38 facility, treatment facility, or storage reservoir.

39 (r) (1) “Recycled water” means water produced by the treatment
40 of municipal wastewater in accordance with applicable

1 requirements, that is suitable for a direct beneficial use or a
2 controlled use that would not otherwise occur and is therefore
3 considered a valuable resource. For purposes of this division,
4 recycled water includes the following:

5 (A) “Soil aquifer treated purified water” and “advanced treated
6 purified water,” as defined in this section.

7 (B) Wastewater treated as “disinfected tertiary recycled water,”
8 as defined or described by the State Department of Public Health.

9 (C) Wastewater receiving advanced treatment beyond disinfected
10 tertiary recycled water but that is not advanced treated or soil
11 aquifer treated purified water as defined in this section.

12 (2) “Recycled water” as defined in this section shall not be
13 considered “waste” as defined in subdivision (d) of Section 13050,
14 “waste” as defined in subdivision (a) of Section 5410 of the Health
15 and Safety Code, or “sewage” or the “effluent of treated sewage
16 or other waste” as used in Section 5411 of the Health and Safety
17 Code.

18 (s) “Recycled water groundwater recharge project” means
19 groundwater recharge utilizing surface application of recycled
20 water that is not advanced treated purified water.

21 (t) “Recycled water producer” means any local public or private
22 entity that produces recycled water in accordance with this division.

23 (u) “Recycled water wholesaler” means any local public entity
24 that distributes recycled water to retail water suppliers and that
25 has constructed, or is constructing, a recycled water distribution
26 system.

27 (v) “Regional board” means any California regional water
28 quality control board for a region, as specified in Section 13200.

29 (w) “Retail water supplier” means any local entity, including a
30 public agency, city, county, or private water company that provides
31 retail water service.

32 (x) “Soil aquifer treated purified water” means wastewater
33 treated as “disinfected tertiary recycled water,” as defined or
34 described by the State Department of Public Health, that has also
35 undergone treatment ~~in unsaturated and saturated soil conditions~~
36 *underground*.

37 (y) “State board” means the State Water Resources Control
38 Board.

39 (z) “Storm-induced overflow” means the displacement of water
40 from a nonpotable impoundment containing recycled water by the

1 inflow of rainwater or stormwater runoff. Overflow is not
2 considered storm induced if it is due to intentional release or due
3 to failure to cease the placement of recycled water into the
4 impoundment during a storm or while inflow from a storm is
5 continuing.

6 (aa) “Structure” or “structures” means commercial, retail, and
7 office buildings, theaters, auditoriums, condominium projects,
8 schools, hotels, apartments, barracks, dormitories, jails, prisons
9 and reformatories, and other structures as determined by the State
10 Department of Public Health.

11 (ab) “Treated water augmentation” means the planned
12 introduction of recycled water into potable water.

13 (ac) “Uniform water recycling criteria” or “recycling criteria”
14 means the standards promulgated by the State Department of Public
15 Health for levels of constituents in recycled water, together with
16 means for reliably treating the recycled water, which will result
17 in recycled water that is safe for the uses to be made.

18 (ad) “Wastewater” means water that has been used for domestic,
19 commercial, industrial, or other purposes and discarded through
20 a pipe or other conveyance to a ~~publicly owned~~ treatment works.
21 *For purposes of this division, wastewater does not include water*
22 *that has been used solely for industrial purposes before being*
23 *discarded.*

24 (ae) “Waters of the state” means any surface water or
25 groundwater, including saline waters, within the boundaries of the
26 state.

27 CHAPTER 2. RECYCLING GOALS

28
29
30 18010. (a) This division establishes a statewide goal to recycle
31 a total of 1.5 million acre-feet of water per year by ~~the year~~ 2020
32 and 2.5 million acre-feet of water per year by ~~the year~~ 2030.

33 (b) The state board and regional boards, the State Department
34 of Public Health, the Public Utilities Commission, the department,
35 and other state agencies shall exercise the authority and discretion
36 granted to them by the Legislature to encourage the use of recycled
37 water and meet the goals established in subdivision (a).

38 (c) The use of recycled water in accordance with this division
39 or Chapter 20 (commencing with Section 26300) of Division 20
40 of the Health and Safety Code, and the use of recycled water as

1 defined in subdivision (n) of Section 13050, shall count toward
2 meeting the water recycling goals established in subdivision (a).

3
4 CHAPTER 3. GENERAL PROVISIONS
5

6 18015. (a) An action authorized pursuant to this division shall
7 be consistent, to the extent applicable, with the federal Clean Water
8 Act (33 U.S.C. Sec. 1251 et seq.) and the federal Safe Drinking
9 Water Act (42 U.S.C. Sec. 300f et seq.).

10 (b) Nothing in this division is intended to alter or affect any
11 existing water rights.

12 18016. The state board and the State Department of Public
13 Health may each adopt regulations to carry out their powers and
14 duties under this division. Any regulations adopted shall be
15 consistent with this division, including achievement of the water
16 recycling goals set forth in Section 18010.

17 18017. The State Department of Public Health may accept
18 public or private funds from any source, and may expend these
19 funds, upon appropriation by the Legislature, for the purposes of
20 this division.

21
22 CHAPTER 4. USES OF RECYCLED WATER
23

24 Article 1. Uniform Water Recycling Criteria for Nonpotable
25 Uses
26

27 18020. (a) The State Department of Public Health shall
28 establish and maintain uniform water recycling criteria for each
29 varying type of nonpotable use of recycled water where the use
30 requires protection of public health.

31 (b) Adoption of uniform water recycling criteria by the State
32 Department of Public Health is subject to the requirements of
33 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
34 3 of Title 2 of the Government Code.

35
36 Article 2. Drinking Water Criteria for Potable Uses
37

38 18030. The Legislature finds and declares the following:

1 (a) The use of recycled water for potable reuse is critical to
2 achieving the state's water recycling goals established in Section
3 18010 for increased use of recycled water in the state.

4 (b) California is a national leader in potable reuse. Potable reuse
5 projects have been permitted in California and have delivered safe
6 water to customers since 1962, using a combination of *engineered*
7 *and natural* treatment processes ~~and natural barriers~~. Ongoing
8 advancements in *these treatment technologies processes* have
9 increased the opportunities to develop potable reuse projects that
10 have been proven to *provide effective barriers and* reliably deliver
11 safe water to customers.

12 (c) ~~Treatment-Engineered and natural treatment processes or~~
13 ~~natural barriers, such as soil aquifer treatment,~~ selected for
14 individual potable reuse projects, can purify water. ~~The particular~~
15 *appropriate process for each reuse project should be selected based*
16 *on local hydrological and geological conditions, or combination*
17 *of processes, should consider the type of reuse project and*
18 *site-specific conditions.*

19 (d) Achievement of the state's water recycling goals depends
20 on the timely development of appropriate criteria for potable reuse
21 by the State Department of Public Health.

22 (e) This article is not intended to delay, invalidate, or reverse
23 any study or project, or development of regulations by the State
24 Department of Public Health, the state board, or the regional boards
25 regarding the use of recycled water for potable reuse.

26 (f) This article shall not be construed to delay, invalidate, or
27 reverse the State Department of Public Health's ongoing review
28 of projects consistent with Section 116551 of the Health and Safety
29 Code.

30 18031. (a) On or before December 31, 2013, the State
31 Department of Public Health shall adopt drinking water criteria
32 for groundwater recharge projects utilizing recycled water.

33 (b) (1) On or before December 31, 2016, the State Department
34 of Public Health shall develop and adopt drinking water criteria
35 for the use of advanced treated purified water for raw water
36 augmentation projects not subject to the criteria established
37 pursuant to subdivision (a).

38 (2) Prior to adopting drinking water criteria for the use of
39 advanced treated purified water for raw water augmentation
40 pursuant to paragraph (1), the State Department of Public Health

1 shall submit the proposed criteria to the expert panel convened
2 pursuant to subdivision (a) of Section 18035. The expert panel
3 shall review the proposed criteria and shall make a finding as to
4 whether, in its expert opinion, the proposed criteria would
5 adequately protect public health.

6 (3) The State Department of Public Health shall not adopt
7 drinking water criteria for the use of advanced treated purified
8 water for raw water augmentation pursuant to paragraph (1) unless
9 and until the expert panel adopts a finding that the proposed criteria
10 would adequately protect public health.

11 (c) Adoption of drinking water criteria by the State Department
12 of Public Health is subject to the requirements of Chapter 3.5
13 (commencing with Section 11340) of Part 1 of Division 3 of Title
14 2 of the Government Code.

15 18032. (a) (1) The State Department of Public Health shall
16 investigate and report to the Legislature on the feasibility of
17 developing drinking water criteria for potable reuse involving
18 treated water augmentation.

19 (2) The State Department of Public Health shall complete a
20 public review draft of its report by June 30, 2016. The State
21 Department of Public Health shall provide the public not less than
22 45 days to review and comment on the public review draft.

23 (3) The State Department of Public Health shall provide a final
24 report to the Legislature by December 31, 2016. The State
25 Department of Public Health shall make the final report available
26 to the public.

27 (b) In conducting the investigation pursuant to subdivision (a),
28 the State Department of Public Health shall examine all of the
29 following:

30 (1) The availability and reliability of recycled water treatment
31 technologies necessary to ensure the protection of public health.

32 (2) Multiple barriers and sequential treatment processes that
33 may be appropriate at wastewater and water treatment facilities.

34 (3) Available information on health effects.

35 (4) Mechanisms that should be employed to protect the public
36 health if problems are found in recycled water that is being served
37 to the public as a potable water supply, including, but not limited
38 to, the failure of treatment systems at the wastewater or water
39 treatment facility.

1 (5) Monitoring needed to ensure protection of public health,
2 including, but not limited to, the identification of appropriate
3 indicator and surrogate constituents.

4 (6) Any other scientific or technical issues that the State
5 Department of Public Health determines to be necessary, including,
6 but not limited to, the need for additional research.

7 (c) (1) Notwithstanding Section 10231.5 of the Government
8 Code, the requirement for submitting a report imposed under
9 paragraph (3) of subdivision (a) is inoperative on December 31,
10 2020.

11 (2) A report to be submitted pursuant to paragraph (3) of
12 subdivision (a) shall be submitted in compliance with Section 9795
13 of the Government Code.

14 18033. In performing its investigation of the feasibility of
15 developing the drinking water criteria for potable reuse involving
16 treated water augmentation, the State Department of Public Health
17 shall consider all of the following:

18 (a) Recommendations from the expert panel appointed pursuant
19 to paragraph (1) of subdivision (a) of Section 18035.

20 (b) Recommendations from an advisory group, task force, or
21 other group appointed by the State Department of Public Health
22 pursuant to paragraph (1) of subdivision (b) of Section 18035.

23 (c) Regulations and guidelines for these activities from
24 jurisdictions in other states, the federal government, or other
25 countries.

26 (d) Research regarding constituents of emerging concern, as
27 developed pursuant to Section 10 of the Recycled Water Policy
28 adopted by state board Resolution No. 2009-0011.

29 (e) Results of the investigation undertaken pursuant to Section
30 18032.

31 (f) Water quality and health risk assessments associated with
32 existing potable water supplies subject to discharges from
33 municipal wastewater, stormwater, and agricultural runoff.

34 18034. (a) The State Department of Public Health, in
35 consultation with the state board, shall report to the Legislature as
36 part of the annual budget process, in each year through 2016,
37 inclusive, on the progress toward developing and adopting drinking
38 water criteria for the use of advanced treated purified water for
39 raw water augmentation pursuant to paragraph (1) of subdivision
40 (b) of Section 18031 and its investigation of the feasibility of

1 developing drinking water criteria for treated water augmentation
2 pursuant to Section 18032.

3 (b) (1) A written report submitted pursuant to subdivision (a)
4 shall be submitted in compliance with Section 9795 of the
5 Government Code.

6 (2) Pursuant to Section 10231.5 of the Government Code, this
7 section is repealed on January 1, 2017.

8 18035. (a) (1) The State Department of Public Health shall
9 convene and administer an expert panel for the purposes of advising
10 the State Department of Public Health on public health issues and
11 scientific and technical matters regarding the following:

12 (A) Development of drinking water criteria for raw water
13 augmentation of surface water using advanced treated purified
14 water pursuant to paragraph (1) of subdivision (b) of Section
15 18031.

16 (B) Investigation of the feasibility of developing drinking water
17 criteria for treated water augmentation pursuant to Section 18032.

18 (2) The expert panel shall be comprised, at a minimum, of a
19 toxicologist, an engineer licensed in the state with at least three
20 years' experience in wastewater treatment, an engineer licensed
21 in the state with at least three years' experience in treatment of
22 drinking water supplies and knowledge of drinking water standards,
23 an epidemiologist, a microbiologist, and a chemist.

24 (3) Members of the expert panel may be reimbursed for
25 reasonable and necessary travel expenses.

26 (b) (1) The State Department of Public Health shall appoint an
27 advisory group, task force, or other group, comprised of no fewer
28 than nine representatives of water and wastewater agencies, local
29 public health officers, environmental organizations, environmental
30 justice organizations, public health nongovernmental organizations,
31 and the business community, to advise the State Department of
32 Public Health regarding the development of drinking water criteria
33 pursuant to subdivision (b) of Section 18031 and investigation of
34 the feasibility of developing drinking water criteria pursuant to
35 Section 18032.

36 (2) Environmental, environmental justice, and public health
37 nongovernmental organization representative members of the
38 advisory group, task force, or other group may be reimbursed for
39 reasonable and necessary travel expenses.

Article 3. Nonpotable Uses of Recycled Water

18040. (a) The use of potable water for nonpotable uses, including, but not limited to, toilet and urinal flushing in structures, irrigation of cemeteries, golf courses, parks, highway landscaped areas, and residential landscaping, floor trap priming, cooling towers, air-conditioning devices, and other industrial and irrigation uses, is a waste or an unreasonable use of the water within the meaning of Section 2 of Article X of the California Constitution if the state board or regional board determines, after notice to any person or entity who may be ordered to use recycled water or to cease using potable water and, if requested by the person or entity after a hearing held pursuant to Article 2 (commencing with Section 648) of Chapter 1.5 of Division 3 of Title 23 of the California Code of Regulations, that recycled water meeting all of the following conditions is available:

(1) The source of recycled water is of adequate quality for nonpotable uses and is available for these uses. In determining adequate quality, the state board or regional board shall consider all relevant factors, including, but not limited to, food and employee safety, and level and types of specific constituents in the recycled water affecting these uses, on a user-by-user basis.

(2) The recycled water may be furnished for nonpotable uses at a reasonable cost to the user. In determining reasonable cost, the state board or regional board shall consider all relevant factors, including, but not limited to, the present and projected costs of supplying, delivering, and treating potable water for these uses and the present and projected costs of supplying, delivering, and treating recycled water for these uses, and shall find that the cost of supplying the treated recycled water is comparable to, or less than, the cost of supplying potable water.

(3) After concurrence with the State Department of Public Health, the use of recycled water from the proposed source will not be detrimental to the public health.

(4) The use of recycled water for these uses will not adversely affect downstream water rights, will not degrade water quality *or beneficial uses*, except in accordance with the applicable water quality control plan, and is determined not to be injurious to plantlife, fish, and wildlife.

1 (b) In making the determination pursuant to subdivision (a), the
2 state board or regional board shall consider the impact of the cost
3 and quality of the nonpotable water on each individual user.

4 (c) The state board or regional board may require a public
5 agency or person subject to this article to furnish information which
6 the state board or regional board determines to be relevant to
7 making the determination required in subdivision (a).

8 18041. (a) Any state or local public agency may require the
9 use of recycled water for irrigation of residential landscaping, if
10 all of the following requirements are met:

11 (1) The use of recycled water does not cause any loss or
12 diminution of any existing water right.

13 (2) The irrigation systems are constructed in accordance with
14 Chapter 3 (commencing with Section 60301) of Division 4 of Title
15 22 of the California Code of Regulations.

16 (b) This section applies to both of the following:

17 (1) Any existing approved use that is retrofitted to receive
18 recycled water.

19 (2) Any new use that is permitted or begins construction after
20 January 1, 2013.

21 18042. (a) Any state or local public agency may require the
22 use of recycled water in floor trap priming, cooling towers, and
23 air-conditioning devices, if both of the following requirements are
24 met:

25 (1) The use of recycled water does not cause any loss or
26 diminution of any existing water right.

27 (2) If public exposure to aerosols, mist, or spray may occur,
28 appropriate mist mitigation or mist control is provided, such as
29 the use of mist arrestors or the addition of biocides to the water in
30 accordance with criteria established pursuant to Section 18020.

31 (b) This section applies to both of the following:

32 (1) New industrial facilities and subdivisions for which the
33 building permit is issued on or after January 1, 2013, or, if a
34 building permit is not required, new structures for which
35 construction begins on or after January 1, 2013, for which the State
36 Department of Public Health has approved the use of recycled
37 water.

38 (2) Any structure that is retrofitted to permit the use of recycled
39 water for floor traps, cooling towers, or air-conditioning devices,

1 for which the State Department of Public Health has approved the
2 use of recycled water.

3 18043. (a) Any state or local public agency may require the
4 use of recycled water for toilet and urinal flushing in structures,
5 except a mental hospital or other facility operated by a public
6 agency for the treatment of persons with mental disorders, if all
7 of the following requirements are met:

8 (1) The use of recycled water does not cause any loss or
9 diminution of any existing water right.

10 (2) The public agency has prepared an engineering report
11 pursuant to Section 60323 of Title 22 of the California Code of
12 Regulations that includes plumbing design, cross-connection
13 control, and monitoring requirements for the use site, which are
14 in compliance with criteria established pursuant to Section 18020.

15 (b) Recycled water may be used in ~~condominiums~~ *a*
16 *condominium project, as described in subdivision (f) of Section*
17 *1351 of the Civil Code*, for toilet and urinal flushing, subject to all
18 of the following additional conditions:

19 (1) For any condominium, the lease or condominium's
20 declaration, as defined in Section 1351 of the Civil Code, shall
21 provide that the laws and regulations governing recycled water
22 apply, shall not permit any exceptions to those laws and
23 regulations, shall incorporate the report described in subdivision
24 (a), and shall contain the following statement:

25
26 “NOTICE OF USE OF RECYCLED WATER

27 This property is approved by the State Department of Public
28 Health for the use of recycled water for toilet and urinal flushing.
29 This water is not potable, is not suitable for indoor purposes other
30 than toilet and urinal flushing purposes, and requires dual
31 plumbing. Alterations and modifications to the plumbing system
32 require a permit and are prohibited without first consulting with
33 the appropriate local building code enforcement agency and your
34 property management company or homeowners' association to
35 ensure that the recycled water is not mixed with the drinking
36 water.”

37
38 (2) That each project will be tested by the recycled water agency
39 or the responsible local agency at least once every four years to

1 ensure that there are no indications of a possible cross connection
2 between the condominium's potable and nonpotable systems.

3 (3) The recycled water agency or the responsible local agency
4 shall maintain records of all tests and inspections conducted.

5
6 Article 4. Exemptions from Environmental Quality Act
7

8 18050. ~~Division 13 (commencing with Section 21000) of the~~
9 ~~Public Resources Code does not apply to any project that involves~~
10 ~~only the retrofit of existing plumbing systems to accommodate the~~
11 ~~use of recycled water.~~ *Any project that involves only the repiping,*
12 *redesign, or use of recycled water for irrigation of residential*
13 *landscaping, floor trap priming, cooling towers, air-conditioning*
14 *devices, or toilet and urinal flushing in structures necessary to*
15 *comply with a requirement prescribed by a public agency under*
16 *Section 18041, 18042, or 18043 is exempt from Division 13*
17 *(commencing with Section 21000) of the Public Resources Code*
18 *as provided in Section 21080.43 of the Public Resources Code.*
19

20 Article 5. Special Provisions
21

22 18060. (a) The Legislature hereby finds and declares that
23 certain coastal areas of the state have been using sea water to flush
24 toilets and urinals as a means of conserving potable water; that
25 this practice precludes the beneficial reuse of treated wastewater
26 and has had a deleterious effect on the proper wastewater treatment
27 process, and has led to corrosion of the sea water distribution
28 pipelines and wastewater collection systems; that this situation
29 must be changed; and that the use of recycled water in structures
30 for toilet and urinal flushing does not pose a threat to public health
31 and safety.

32 (b) Any state or local public agency, that is providing a separate
33 distribution system for sea water for use in flushing toilets and
34 urinals in residential structures may, by ordinance or regulation,
35 as appropriate, authorize the use of recycled water for the flushing
36 of toilets and urinals in residential structures if the level of
37 treatment and the use of the recycled water meets the criteria set
38 by the State Department of Public Health.

1 CHAPTER 4.5. PLANNING FOR RECYCLED WATER

2
3 Article 1. Installation of Dual Piping for Irrigation

4
5 18100. (a) If a recycled water producer, wholesaler, or supplier
6 determines that within 10 years the recycled water producer,
7 *wholesaler, or supplier* proposes to provide recycled water for use
8 for state landscape irrigation that meets all of the conditions set
9 forth in Section 18040, the recycled water producer, wholesaler,
10 or supplier shall so notify the Department of Transportation and
11 the Department of General Services, and shall identify in the notice
12 the area that is eligible to receive the recycled water, and the
13 necessary infrastructure that the recycled water producer,
14 wholesaler, or supplier proposes to provide, to facilitate delivery
15 of the recycled water.

16 (b) If notice has been provided pursuant to subdivision (a), all
17 pipe installed by the Department of Transportation or the
18 Department of General Services for landscape irrigation within
19 the identified area shall be of the type necessary to meet the
20 requirements of Section 116815 of the Health and Safety Code
21 and applicable regulations.

22
23 Article 2. Studies Related to Recycled Water

24
25 18110. The department shall conduct studies and investigations
26 on the availability and quality of wastewater and the uses of
27 recycled water for beneficial purposes, including, but not limited
28 to, groundwater recharge, municipal and industrial use, irrigation
29 use, and cooling for thermal electric powerplants.

30 18111. The department shall study and investigate the
31 technology of the use of recycled water and further the
32 development of the technology of the recycling of water.

33
34 Article 3. Water Recycling in Landscaping Act

35
36 18120. If a recycled water producer, wholesaler, or supplier
37 determines that within 10 years the recycled water producer,
38 wholesaler, or supplier will provide recycled water within the
39 boundaries of a land use agency that meets all of the conditions
40 described in Section 18040, the recycled water producer,

1 *wholesaler; or supplier* shall notify the land use agency of that
2 fact and shall identify in the notice the area that is eligible to
3 receive the recycled water, and the necessary infrastructure that
4 the recycled water producer, wholesaler, or supplier will provide
5 to support delivery of the recycled water.

6 18121. (a) Within 180 days of receipt of notification from a
7 recycled water producer, *wholesaler; or supplier* pursuant to
8 Section 18120, the land use agency shall adopt and enforce a
9 recycled water ordinance pursuant to this article.

10 (b) The ordinance shall include, but not be limited to, provisions
11 that do all of the following:

12 (1) State that it is the policy of the land use agency that recycled
13 water determined to be available pursuant to Section 18040 shall
14 be used for nonpotable uses within the designated recycled water
15 use area set forth by the land use agency when the local public
16 agency determines that there is not an alternative higher or better
17 use for the recycled water, its use is economically justified, and
18 its use is financially and technically feasible for projects under
19 consideration by the land use agency.

20 (2) Designate the areas within the boundaries of the land use
21 agency that can or may in the future use recycled water, including,
22 but not limited to, existing urban areas in lieu of potable water.

23 (3) Establish general rules and regulations governing the use
24 and distribution of recycled water in accordance with applicable
25 laws and regulations.

26 (4) Establish that the use of the recycled water is determined to
27 be available pursuant to Section 18040 in new industrial,
28 commercial, or residential subdivisions located within the
29 designated recycled water use areas for which a tentative map or
30 parcel map is required pursuant to Section 66426 of the
31 Government Code. These provisions shall require a separate
32 plumbing system to serve nonpotable uses in the common areas
33 of the subdivision, including, but not limited to, golf courses, parks,
34 greenbelts, landscaped streets, and landscaped medians. The
35 separate plumbing system to serve nonpotable uses shall be
36 independent of the plumbing system provided to serve domestic,
37 residential, and other potable water uses in the subdivision.

38 (5) Require that recycled water service shall not commence
39 within the designated recycled water use area in any service area
40 of a private utility, as defined in Section 1502 of the Public Utilities

Code, or to any service area of a public agency retail water supplier that is not a local public agency as defined in Section 18005, except in accordance with a written agreement between the recycled water producer or wholesaler and the private utility or public agency retail water supplier that shall be made available in a timely manner by the recycled water producer or wholesaler to the land use agency adopting the ordinance pursuant to this article.

18122. The recycled water ordinance adopted by a land use agency pursuant to Section 18121 shall not apply to either of the following:

(a) A tentative map as defined in Section 66424.5 of the Government Code, or a development, as defined in Section 65927 of the Government Code, that was approved by the land use agency prior to the receipt of notification from a recycled water producer, wholesaler, or supplier pursuant to Section 18120.

(b) A subdivision map application that is deemed complete pursuant to Section 65943 of the Government Code prior to the land use agency's receipt of a notice from a recycled water producer, wholesaler, or supplier pursuant to Section 18120.

18123. (a) This chapter shall not apply to any land use agency that adopted a recycled water ordinance or other regulation requiring the use of recycled water in its jurisdiction prior to January 1, 2001.

(b) This chapter does not alter any rights, remedies, or obligations that may exist pursuant to Chapter 8.5 (commencing with Section 1501) of Part 1 of Division 1 of the Public Utilities Code.

Article 4. Provisions Specific to Recycled Water Suppliers and Retail

18130. In addition to any other authority provided in law, any water supplier described in subdivision (b) of Section 1745 may acquire, store, provide, sell, and deliver recycled water for any beneficial use, including, but not limited to, municipal, industrial, domestic, and irrigation uses, if the water use is in accordance with the uniform water recycling criteria and regulations established pursuant to this division or the drinking water criteria for advanced treated purified water *and soil aquifer treated purified water* established pursuant to ~~subdivision (b)~~ of Section 18031.

1 18131. (a) Retail water suppliers shall identify potential uses
2 for recycled water within their service areas, potential customers
3 for recycled water service within their service areas, and, within
4 a reasonable time, potential sources of recycled water.

5 (b) Recycled water producers and recycled water wholesalers
6 may also identify potential uses for recycled water, and may assist
7 retail water suppliers in identifying potential customers for recycled
8 water service within the service areas of those retail water suppliers.

9 (c) Recycled water producers, wholesalers, and suppliers, and
10 entities responsible for groundwater replenishment may cooperate
11 in joint technical, economic, and environmental studies, as
12 appropriate, to determine the feasibility of providing recycled
13 water service and recycled water for groundwater replenishment
14 consistent with the criteria set forth in paragraphs (1) to (3),
15 inclusive, of subdivision (a) of Section 18040 and in accordance
16 with Section 60320 of Title 22 of the California Code of
17 Regulations.

18 18132. (a) A retail water supplier that has identified a potential
19 use or customer pursuant to Section 18131 may apply to a recycled
20 water producer or recycled water wholesaler for a recycled water
21 supply.

22 (b) A recycled water producer or recycled water wholesaler that
23 has identified a potential use or customer pursuant to Section 18131
24 may request, in writing, a retail water supplier to enter into an
25 agreement to provide recycled water to the potential customer.

26 (c) A customer may request, in writing, a retail water supplier
27 to enter into an agreement to provide recycled water to the
28 customer.

29 (d) (1) An entity responsible for groundwater replenishment
30 that is a customer of a retail water supplier and that has identified
31 the potential use of recycled water for groundwater replenishment
32 purposes may, in writing, request that retail water supplier to enter
33 into an agreement to provide recycled water for that purpose. That
34 entity shall not obtain recycled water for that purpose from a
35 recycled water producer, a recycled water wholesaler, or another
36 retail water supplier without the agreement of the entity's retail
37 water supplier.

38 (2) An entity responsible for groundwater replenishment that
39 is not a customer of a retail water supplier and that has identified
40 the potential use of recycled water for groundwater replenishment

1 purposes may, in writing, request a retail water supplier, a recycled
2 water producer, or a recycled water wholesaler to enter into an
3 agreement to provide recycled water for that purpose.

4 18133. (a) (1) A retail water supplier that receives a request
5 from a customer pursuant to subdivision (c) of Section 18132 shall
6 enter into an agreement to provide recycled water, if recycled water
7 is available, or can be made available, to the retail water supplier
8 for sale to the customer.

9 (2) Notwithstanding paragraph (1), in accordance with a written
10 agreement between a recycled water producer or a recycled water
11 wholesaler and a retail water supplier, the retail water supplier
12 may delegate to a recycled water producer or a recycled water
13 wholesaler its responsibility under this section to provide recycled
14 water.

15 (b) A customer shall not obtain recycled water from a recycled
16 water producer, a recycled water wholesaler, or a retail water
17 supplier other than the retail water supplier whose service area
18 includes the property to which the customer requests recycled
19 water delivery without the agreement of the retail water supplier
20 for that service area.

21 (c) If either a recycled water producer or a recycled water
22 wholesaler provides a customer of a retail water supplier with a
23 written statement that it can and will provide recycled water to the
24 retail water supplier, the retail water supplier shall, not later than
25 120 days from the date on which the retail water supplier receives
26 the written statement from the customer, by certified mail, return
27 receipt requested, submit a written offer to the customer. A
28 determination of availability pursuant to Section 18040 is not
29 required.

30 (d) If the state board, pursuant to Section 18040, makes a
31 determination that there is available recycled water to serve a
32 customer of a retail water supplier, the retail water supplier, not
33 later than 120 days from the date on which the retail water supplier
34 receives a copy of that determination from the customer, by
35 certified mail, return receipt requested, shall submit a written offer
36 to the customer.

Article 5. Distribution of Recycled Water in Separate Purple
Pipelines

18140. (a) Water delivery systems on private property that could deliver recycled water for nonpotable uses that are constructed on and after January 1, 1993, shall be designed to ensure that the water to be used for potable uses is delivered, from the point of entry to the private property to be served, in a separate pipeline that is not used to deliver the recycled water.

(b) This section applies to water delivery systems on private property constructed within either of the following jurisdictions:

(1) One that has an urban water management plan that includes the intent to develop recycled water use.

(2) One that does not have an urban water management plan that includes recycled water use, but that is within five miles of a jurisdiction that does have an urban water management plan that includes recycled water use, and has indicated a willingness to serve the water delivery system.

(3) One that has received notice under Section 18120.

(c) This section does not preempt local regulation of the delivery of water for potable and nonpotable uses and any local governing body may adopt requirements for water delivery systems on private property that are more restrictive than the requirements of this section.

18141. (a) All pipes installed above or below the ground, on and after June 1, 1993, that are designed to carry recycled water, shall be colored purple or distinctively wrapped with purple tape.

(b) Subdivision (a) shall apply only in areas served by a water supplier delivering water for municipal and industrial purposes, and shall not apply to ~~any~~ *either* of the following:

(1) Municipal or industrial facilities that have established a labeling or marking system for recycled water on their premises, as otherwise required by a local agency, that clearly distinguishes recycled water from potable water.

(2) Water delivered for agricultural use.

CHAPTER 5.6. PERMITTING OF RECYCLED WATER

Article 1. Authority

18200. The use of recycled water, as defined in this division, with the exception of advanced treated purified water, shall be permitted by the appropriate regional board or the state board in accordance with this chapter. The use of advanced treated purified water shall be permitted in accordance with Chapter 20 (commencing with Section 26300) of Division 20 of the Health and Safety Code. All other water reuse shall be permitted as appropriate in accordance with Division 7 (commencing with Section 13000).

18201. (a) The state board and regional boards shall issue water recycling permits for nonpotable uses of recycled water, and recycled water groundwater recharge projects using soil aquifer treated purified water, in conformance with this division. Water recycling permits for nonpotable uses of recycled water shall implement the uniform water recycling criteria adopted by the State Department of Public Health pursuant to Section 18020. Water recycling permits for recycled water groundwater recharge projects using soil aquifer treated purified water shall implement the drinking water criteria adopted by the State Department of Public Health pursuant to subdivision (a) of Section 18031.

(b) The state board and regional boards shall permit raw water augmentation projects not subject to the criteria developed pursuant to Section 18031 utilizing recycled water that is not advanced treated purified water on a case-by-case basis in consultation with the State Department of Public Health.

(c) Except as provided for in subdivision (d), the use of advanced treated purified water for raw water augmentation shall be permitted as a source of supply by the State Department of Public Health pursuant to ~~Section~~ *Sections 26302 and 26303* of the Health and Safety Code and not subject to a water recycling permit. The permits shall implement the drinking water criteria adopted by the State Department of Public Health pursuant to subdivision (b) of Section 18031.

(d) When advanced treated purified water is used in conjunction with soil aquifer treated purified water in a recycled water groundwater recharge project, the recycled water groundwater

1 recharge project shall be regulated in accordance with a water
2 recycling permit issued pursuant to Section 18212. The permit
3 shall implement the drinking water criteria adopted by the State
4 Department of Public Health pursuant to subdivision (a) of Section
5 18031.

6 18202. In addition to establishing uniform water recycling
7 criteria pursuant to Section 18020 and drinking water criteria
8 pursuant to Section 18031, the State Department of Public Health
9 shall review reports of intent to recycle water as provided in Article
10 3 (commencing with Section 18220) and make any
11 recommendations for the proposed recycled water projects to the
12 state board and regional boards as appropriate for protection of
13 public health.

14 18203. (a) The use of recycled water, as defined in this
15 division, permitted prior to ~~December 31, 2012~~ *January 1, 2013*,
16 utilizing water recycling requirements, master recycling permits,
17 or waste discharge requirements issued pursuant to Division 7
18 (commencing with Section 13000) shall be permitted in accordance
19 with this division or Chapter 20 (commencing with Section 26300)
20 of Division 20 of the Health and Safety Code, as applicable, upon
21 expiration or modification of the water recycling requirements,
22 master recycling permits, or waste discharge requirements, or upon
23 agreement by the appropriate regional board and permitted entity,
24 whichever is sooner.

25 (b) The use of recycled water, as defined in this division,
26 permitted prior to ~~December 31, 2012~~ *January 1, 2013*, utilizing
27 water recycling requirements, master recycling permits, or waste
28 discharge requirements issued pursuant to Division 7 (commencing
29 with Section 13000) shall be complied with, administered, and
30 enforced in accordance with those water recycling requirements,
31 master recycling permits, or waste discharge requirements issued
32 pursuant to Division 7 (commencing with Section 13000).

33 34 Article 2. Types of Permits 35

36 18210. (a) The state board or a regional board may issue a
37 water recycling permit for nonpotable reuse to a producer,
38 wholesaler, or supplier of recycled water, or a combination thereof
39 for multiple *uses and* users of recycled water.

1 (b) A water recycling permit for nonpotable reuse shall include
2 all of the following:

3 (1) Water recycling requirements to assure compliance with the
4 uniform water recycling criteria for nonpotable reuse.

5 (2) A requirement that the permittee establish and enforce rules
6 or regulations for recycled water users governing the use of
7 recycled water in accordance with the uniform water recycling
8 criteria.

9 (3) A requirement that the permittee submit an annual report
10 summarizing recycled water use, including the total amount of
11 recycled water supplied, the total number of recycled water use
12 sites, and the locations of those sites, including the names of the
13 groundwater basins underlying the recycled water use sites.

14 (4) A requirement that the permittee create a program for
15 oversight of the facilities of the recycled water users to monitor
16 compliance by the users with the uniform water recycling criteria,
17 the applicable water recycling permit, and the requirements of the
18 permittee's adopted rules and regulations.

19 (5) A requirement that the permittee comply with the program
20 described in the permittee's report of intent to recycle water filed
21 pursuant to Section 18220.

22 (c) With regard to requirements related to the protection of the
23 public health, the state board and regional boards shall implement
24 the recommendations of the State Department of Public Health.

25 (d) Where water recycling occurs within an area covered by a
26 municipal separate storm sewer system permit issued pursuant to
27 the federal National Pollutant Discharge Elimination System, the
28 state board and regional water boards shall regulate incidental
29 runoff to the extent necessary as a low threat nonstormwater
30 discharge under the municipal separate storm sewer system permit.

31 (e) The state board and regional boards shall regulate filling
32 and storm-induced overflow of nonpotable surface water
33 augmentation reservoirs and other nonpotable impoundments on
34 a case-by-case basis as necessary to avoid or minimize identified
35 adverse impacts relating to the individual impoundment that are
36 not addressed by uniform water recycling criteria.

37 18211. (a) In lieu of issuing a water recycling permit for
38 nonpotable reuse to a producer, wholesaler, or supplier of recycled
39 water, the state board or a regional water board may issue general

1 permits that provide coverage to producers, wholesalers, or
2 suppliers, or a combination thereof.

3 (b) A general permit for recycled water that involves nonpotable
4 reuse shall include requirements consistent with those specified
5 in Section 18210 for an individual water recycling permit.

6 18212. (a) The state board or a regional board may issue a
7 recycled water groundwater recharge permit to a producer,
8 wholesaler, or supplier of recycled water, an entity responsible for
9 groundwater replenishment, or a combination thereof, for recycled
10 water groundwater recharge projects using soil aquifer treated
11 purified water, alone or in conjunction with advanced treated
12 purified water.

13 (b) A recycled water groundwater recharge permit shall include
14 all of the following:

15 (1) Requirements to ~~assure~~ *ensure* compliance with the drinking
16 water criteria for recycled water groundwater recharge projects.

17 (2) Source control requirements needed to protect the quality
18 of the recycled water and achieve the requirements of paragraph
19 (1).

20 (3) Appropriate monitoring and reporting requirements to
21 characterize the quality of the recycled water and groundwater
22 basin and demonstrate compliance with the requirements of the
23 permit.

24 (4) Specifications with respect to buffer zones, travel times,
25 diluent ratios, and groundwater retention requirements, as
26 recommended by the State Department of Public Health to protect
27 public health.

28 (5) A requirement that the permittee comply with the program
29 described in the permittee's report of intent to recycle water filed
30 pursuant to Section 18221.

31 (c) With regard to requirements related to protection of public
32 health, the state board and regional boards shall implement the
33 recommendations of the State Department of Public Health.

34 35 Article 3. Permit Application

36
37 18220. (a) Any recycled water producer, wholesaler, or
38 supplier of recycled water for nonpotable purposes for which
39 uniform water recycling criteria have been established shall file

1 with the appropriate regional board a report of intent to recycle
2 water containing the following information:

3 (1) An engineering report containing the information required
4 by the State Department of Public Health in accordance with its
5 regulations established in Title 22 of the California Code of
6 Regulations. The engineering report shall include, but not be
7 limited to, a description of the ~~methods~~ *method* or methods of
8 wastewater treatment for the category of recycled water to be used
9 and a description of the method or methods to be used to ~~assure~~
10 *ensure* that the installation and operation of the recycled system
11 will not result in cross-connections between the recycled water
12 and potable water piping systems, but shall not require the
13 identification of every site that may be connected to the recycled
14 water delivery system as long as every category of recycled water
15 use is addressed. The engineering report shall also include a
16 detailed operations plan for the recycled water use areas, including
17 methods and procedures for implementation of regulations
18 regarding recycled water use and maintenance of equipment and
19 emergency backup systems, and a monitoring and reporting
20 program to demonstrate compliance with subdivision (b) of Section
21 18210.

22 (2) An implementation plan for demonstrating that the use of
23 recycled water in accordance with this division will not cause the
24 receiving water to exceed any water quality objective specified
25 for the receiving water in the applicable water quality control plan,
26 except as provided in Section 18224. Where a salt or nutrient, or
27 salt and nutrient, management plan is in place for the basin or
28 subbasin, the implementation plan may consist of the
29 implementation provisions of that plan.

30 (3) As applicable, a copy of the recycled water producer's,
31 wholesaler's, or supplier's established rules, or general rules or
32 regulations as approved by the State Department of Public Health
33 for producers, wholesalers, suppliers, and users, governing the use
34 of recycled water in accordance with the uniform water recycling
35 criteria.

36 (b) Every recycled water producer, wholesaler, or supplier of
37 recycled water shall file with the appropriate regional board a
38 report of any material change or proposed change in the character
39 of the recycled water or its use.

1 (c) Each report under this section shall be sworn to, or submitted
2 under penalty of perjury.

3 (d) This section shall not be construed so as to require any report
4 in the case of any producing, manufacturing, or processing
5 operation involving the recycling of water solely for use in the
6 producing, manufacturing, or processing operation.

7 18221. (a) Any person proposing a recycled water groundwater
8 recharge project as defined in this division, within any region and
9 in accordance with the ~~uniform~~ drinking water criteria, shall file
10 with the appropriate regional board a report of intent to recycle
11 water containing the following information:

12 (1) An engineering report consisting of the information required
13 by the State Department of Public Health in accordance with its
14 regulations established in Title 22 of the California Code of
15 Regulations. The engineering report shall include, but not be
16 limited to, a description of the method or methods of treatment, a
17 description of the proposed retention time and methodology used
18 to calculate the retention time, a description of the diluent
19 requirements, recycled water contribution and methods for
20 establishing the diluent requirements and recycled water
21 contribution, and a description of the proposed monitoring program
22 consistent with the drinking water criteria. The engineering report
23 shall also include a detailed operations plan, including methods
24 and procedures for implementation of the drinking water criteria,
25 and maintenance of equipment and emergency backup systems.

26 (2) An implementation plan for demonstrating that the use of
27 recycled water in accordance with this division will not cause the
28 underlying groundwater to exceed any water quality objective
29 specified for the groundwater in the applicable water quality control
30 plan, except as provided in Section 18224. Where a ~~salt/nutrient~~
31 *salt or nutrient, or salt and nutrient*, plan is in place for the basin
32 or subbasin, the implementation plan may consist of the
33 implementation provisions of ~~such salt/nutrient~~ *that* plan.

34 (b) Every person recycling water or using recycled water subject
35 to this section shall file with the appropriate regional board a report
36 of any material change or proposed change in the character of the
37 recycled water or its use.

38 (c) Each report under this section shall be sworn to, or submitted
39 under penalty of perjury.

1 18221.5. (a) The applicable regional board shall determine
2 the adequacy of a report of intent to recycle water filed pursuant
3 to either Section 18220 or 18221 within the time limits set forth
4 in Section ~~65943~~ 65956 of the Government Code.

5 (b) When a project is deemed approved pursuant to Section
6 ~~65943~~ 65956 of the Government Code due to a regional board
7 failure to act on a report of intent to recycle water, the applicant
8 may recycle water as proposed in the report of intent to recycle
9 water until the regional board adopts a water recycling permit or
10 recycled water groundwater recharge permit relative to that project.
11 The regional board shall adopt an appropriate water recycling
12 permit or recycled water groundwater recharge permit as soon as
13 possible for any project deemed approved pursuant to Section
14 ~~65943~~ 65956 of the Government Code.

15 (c) When the applicant has submitted all the information
16 required by the regional board in accordance with this chapter and
17 any fee that is due, the report of intent to recycle water shall be
18 deemed filed. The applicant shall be notified to that effect.

19 18222. The state board and each regional board shall consult
20 with and receive the recommendations of the State Department of
21 Public Health prior to prescribing any water recycling permit as
22 described in Section 18210 or 18212 or a general permit for
23 recycled water as described in Section 18211.

24 18223. (a) The state board or a regional board, as applicable,
25 shall hold a public hearing for the adoption of any water recycling
26 permit as described in Section 18210 or 18212 or a general permit
27 for recycled water as described in Section 18211.

28 (b) The state board or the regional board, as applicable, shall
29 provide notice and a period of at least 30 days for public comment
30 prior to the adoption of any water recycling permit or general
31 permit for recycled water.

32 (c) The notification required by subdivision (b) may be provided
33 by mailing a draft of the water recycling permit or general permit
34 for recycled water to each person who has requested notice of the
35 specific item, or by posting a draft of the respective requirements
36 or order on the official Internet *Web* site maintained by the state
37 board or regional board, and providing notice of that posting by
38 electronic mail to each person who has requested notice.

39 18224. The state board and regional boards shall not deny
40 issuance of a water recycling permit or general permit for recycled

1 water to a project that violates only a salinity standard in the basin
2 plan.

3
4 Article 4. Permit Fees
5

6 18230. (a) (1) Each person who submits a report of intent to
7 recycle water in accordance with Section 18220 or 18221 shall
8 submit a permit filing fee according to a fee schedule established,
9 and periodically adjusted as appropriate, by the state board in
10 conformance with this section.

11 (2) The state board shall provide notice and a period of at least
12 30 days for public comment prior to the adoption or adjustment
13 of any permit filing fee as described in paragraph (1) at a noticed
14 public meeting. The notification may be provided by mailing a
15 draft of the proposed permit filing fee to each person who has
16 requested notice of the specific item, or by posting a draft of the
17 proposed fee on the official Internet Web site maintained by the
18 state board, and providing notice of that posting by electronic mail
19 to each person who has requested notice.

20 (3) Any permit filing fee adopted by the state board, or
21 adjustments thereto, shall not be subject to the requirements of
22 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
23 3 of Title 2 of the Government Code, and shall remain in effect
24 until revised by the state board.

25 (b) The total amount of permit filing fees collected pursuant to
26 this section shall equal that amount necessary to recoup the costs
27 incurred by the state board or regional board in issuing water
28 recycling permits and general permits for recycled water.

29 (c) The permit filing fee shall be paid before the appropriate
30 regional board may deem the report of intent to recycle water to
31 be complete.

32 (d) The permit filing fees collected pursuant to this section shall
33 be deposited in the Water Recycling Permit Fund, which is hereby
34 created. The money in the fund is available for expenditure by the
35 state board, upon appropriation by the Legislature, solely for the
36 purposes of carrying out this division.

37 18231. (a) (1) Each person who is subject to a water recycling
38 permit as described in Section 18210 or 18212, a general permit
39 for recycled water as described in Section 18211, or a permit issued
40 by the State Department of Public Health pursuant to Section 26302

1 of the Health and Safety Code shall submit an annual fee according
2 to a fee schedule established, and periodically adjusted as
3 appropriate, by the state board in conformance with this section.

4 (2) The state board shall establish, by regulation, a timetable
5 for payment of the annual fee.

6 (3) The state board shall provide notice and a period of at least
7 30 days for public comment prior to the adoption or adjustment
8 of any annual fee as described in paragraph (1) or timetable as
9 described in paragraph (2) at a noticed public meeting. The
10 notification may be provided by mailing a draft of the proposed
11 fee or timetable, as applicable, to each person who has requested
12 notice of the specific item, or by posting a draft of the proposed
13 fee or timetable, as applicable, on the official Internet Web site
14 maintained by the state board, and providing notice of that posting
15 by electronic mail to each person who has requested notice.

16 (4) Any annual fee or timetable adopted by the state board, or
17 adjustments thereto, shall not be subject to the requirements of
18 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
19 3 of Title 2 of the Government Code, and shall remain in effect
20 until revised by the state board.

21 (b) The total amount of annual fees collected pursuant to this
22 section shall equal the amount necessary to recoup the recoverable
23 costs as described in subdivision (c) incurred in connection with
24 the administration, reviewing, monitoring, and enforcement of
25 water recycling permits and general permits for recycled water
26 and consultation with the State Department of Public Health
27 regarding permits issued pursuant to ~~Section 26302~~ 26303 of the
28 Health and Safety Code.

29 (c) Recoverable costs are those costs incurred by the state board
30 or a regional board in reviewing monitoring reports; prescribing
31 terms of water recycling permits, general permits for recycled
32 water, and monitoring requirements; enforcing and evaluating
33 compliance with water recycling permits and general permits for
34 recycled water; analyzing laboratory samples; and reviewing
35 documents prepared for the purpose of regulating permits for water
36 recycling; and administrative costs incurred in connection with
37 carrying out these actions.

38 (d) The fees collected pursuant to this section shall be deposited
39 in the Water Recycling Permit Fund established pursuant to Section
40 18230.

1 CHAPTER 5.5.7. ADMINISTRATIVE AND JUDICIAL REVIEW

2
3 18300. An aggrieved person may petition the state board to
4 review any action or failure to act of a regional board pursuant to
5 this division in the same manner as provided for an action or failure
6 to act of a regional board pursuant to Division 7 (commencing
7 with Section 13000) in accordance with Section 13320. The petition
8 may include a request for stay of the water recycling permit or any
9 requirements thereof. A request for stay shall be subject to the
10 procedural requirements of Sections 13320 and 13321.

11 18301. A person aggrieved by a decision or order of a regional
12 board subject to review under Section 18300, or of a decision or
13 order of the state board, may obtain review of the decision or order
14 of the regional board or state board, as appropriate, in the superior
15 court in the same manner as provided for review of a regional
16 board or state board decision or order under Division 7
17 (commencing with Section 13000) in the superior court in
18 accordance with the procedural requirements of Section 13330.

19
20 CHAPTER 6.8. REPORTING AND INVESTIGATION

21
22 18350. (a) Any person who, without regard to intent or
23 negligence, causes or permits an unauthorized release of 50,000
24 gallons or more of tertiary recycled water, as defined in subdivision
25 (c), in or on any waters of the state, or causes or permits such
26 unauthorized release to occur where it has, or probably will, enter
27 any waters of the state, shall, as soon as (1) that person has
28 knowledge of the release, (2) notification is possible, and (3)
29 notification can be provided without substantially impeding cleanup
30 or other emergency measures, immediately notify the appropriate
31 regional board.

32 (b) For the purposes of this section, an unauthorized release
33 means a release of recycled water not authorized by a water
34 recycling permit pursuant to Section 18210 or 18212, a general
35 permit for recycled water pursuant to Section 18211, or any other
36 provision of this division.

37 (c) For the purposes of this section, “tertiary recycled water”
38 means wastewater treated as “disinfected tertiary recycled water,”
39 as defined or described by the State Department of Public Health
40 or wastewater receiving advanced treatment beyond disinfected

1 tertiary 2.2 recycled water that is not advanced treated purified
2 water.

3 (d) Storm-induced overflow is not an unauthorized release.

4 18351. (a) Any person refusing or failing to provide the notice
5 required by Section 18350, or as required by a condition of a water
6 recycling permit or a general permit for recycled water requiring
7 notification of unauthorized releases of recycled water, may be
8 subject to administrative civil liability in an amount not to exceed
9 the following:

10 (1) For the first violation, or a subsequent violation occurring
11 more than 365 days from a previous violation, five thousand dollars
12 (\$5,000).

13 (2) For a second violation occurring within 365 days of a
14 previous violation, ten thousand dollars (\$10,000).

15 (3) For a third or subsequent violation occurring within 365
16 days of a previous violation, twenty-five thousand dollars
17 (\$25,000).

18 (b) The penalties in this section supplement, and shall not
19 supplant, any other provisions of law.

20 (c) Any penalties paid pursuant to this section shall be deposited
21 into the Water Recycling Research Fund established pursuant to
22 Section 18405.

23 18352. (a) A regional board may require any person suspected
24 of producing, wholesaling, supplying, or using recycled water in
25 violation of Section ~~18221~~ 18220 or Section ~~18220~~ 18221, or
26 subdivision (a) of Section 18400 to furnish information that the
27 regional board considers relevant to determining whether a
28 violation is occurring or has occurred.

29 (b) *When requested by the person furnishing a report, the*
30 *portions of a report that might disclose trade secrets or secret*
31 *processes shall not be made available for inspection by the public*
32 *but shall be made available to governmental agencies for use in*
33 *making studies. However, these portions of a report shall be*
34 *available for use by the state or any state agency in judicial review*
35 *or enforcement proceedings involving the person furnishing the*
36 *report.*

37 (c) *In conducting an investigation pursuant to subdivision (a),*
38 *the regional board may inspect the facilities of any person to*
39 *ascertain whether the purposes of this division are being met and*
40 *that water recycling permits or general permits for recycled water*

1 *are being complied with. The inspection shall be made with the*
2 *consent of the owner or possessor of the facilities or, if the consent*
3 *is withheld, with a warrant duly issued pursuant to the procedure*
4 *set forth in Title 13 (commencing with Section 1822.50) of Part 3*
5 *of the Code of Civil Procedure. However, in the event of an*
6 *emergency affecting the public health or safety, an inspection may*
7 *be performed without consent or the issuance of a warrant.*

8 ~~(b)~~

9 *(d) The state board may carry out the authority granted to a*
10 *regional board pursuant to this section if, after consulting with the*
11 *regional board, the state board determines that it will not duplicate*
12 *the efforts of the regional board.*

13
14 CHAPTER 7.9. ENFORCEMENT

15
16 18400. (a) A person shall not produce, wholesale, supply, or
17 use recycled water for any purpose for which uniform water
18 recycling criteria or drinking water criteria have been established
19 until a water recycling permit or general permit has been issued
20 pursuant to this division or the state board or applicable regional
21 board determines that no such requirements or permits are
22 necessary.

23 (b) Upon the refusal or failure of any person or persons
24 producing, wholesaling, supplying, or using recycled water to
25 comply with subdivision (a), the Attorney General, at the request
26 of the regional board, shall petition the superior court for the
27 issuance of a temporary restraining order, preliminary injunction,
28 or permanent injunction, or combination thereof, as may be
29 appropriate, prohibiting forthwith any person or persons from
30 violating or threatening to violate the provisions of subdivision
31 (a).

32 (c) Any person or persons producing, wholesaling, supplying,
33 or using recycled water in violation of subdivision (a), after the
34 violation has been called to his or her attention in writing by the
35 state board or regional board, is guilty of a misdemeanor. Each
36 day of production, wholesaling, supplying, or use of recycled water
37 shall constitute a separate offense.

38 (d) Civil liability may be administratively imposed by a regional
39 board in accordance with Sections 18401 and 18403 for a violation
40 of subdivision (a) in an amount which shall not exceed one

1 thousand dollars (\$1,000) for each day in which the violation
2 occurs.

3 18401. (a) Any executive officer of a regional board may issue
4 a complaint to any person on whom administrative civil liability
5 may be imposed pursuant to this chapter. The complaint shall
6 allege the act or failure to act that constitutes a violation of law,
7 the provision of law authorizing civil liability to be imposed
8 pursuant to this chapter, and the proposed civil liability.

9 (b) The complaint shall be served by certified mail or in
10 accordance with Article 3 (commencing with Section 415.10) and
11 Article 4 (commencing with Section 416.10) of Chapter 4 of Title
12 5 of Part 2 of the Code of Civil Procedure, and shall inform the
13 party so served that a hearing before the regional board shall be
14 conducted within 90 days after the party has been served. The
15 person who has been issued a complaint may waive the right to a
16 hearing.

17 (c) In proceedings under this ~~part~~ *chapter* for imposition of
18 administrative civil liability by the state board, the executive
19 director of the state board shall issue the complaint and any hearing
20 shall be before the state board, or before a member of the state
21 board in accordance with Section 183, and shall be conducted not
22 later than 90 days after the party has been served.

23 (d) Orders imposing administrative civil liability shall become
24 effective and final upon issuance thereof, and are not subject to
25 review by any court or agency except as provided by Sections
26 18300 and 18301. Payment shall be made not later than 30 days
27 from the date on which the order is issued. The time for payment
28 is extended during the period in which a person who is subject to
29 an order seeks review under Sections 18300 and 18301. Copies of
30 these orders shall be served by certified mail or in accordance with
31 Article 3 (commencing with Section 415.10) and Article 4
32 (commencing with Section 416.10) of Chapter 4 of Title 5 of Part
33 2 of the Code of Civil Procedure upon the party served with the
34 complaint and shall be provided to other persons who appeared at
35 the hearing and requested a copy.

36 (e) Information relating to hearing waivers and the imposition
37 of administrative civil liability, as proposed to be imposed and as
38 finally imposed, under this section shall be made available to the
39 public by means of the Internet.

1 18402. No person shall be subject to both civil liability imposed
2 under this chapter and civil liability imposed by the superior court
3 under Section 18405 for the same act or failure to act.

4 18403. In determining the amount of civil liability, the regional
5 board, and the state board upon review of any order pursuant to
6 Section 18300, shall take into consideration the nature,
7 circumstance, extent, and gravity of the violation or violations,
8 whether the release is susceptible to cleanup or abatement, and,
9 with respect to the violator, the ability to pay, the effect on ability
10 to continue in business, any voluntary cleanup efforts undertaken,
11 any prior history of violations, the degree of culpability, economic
12 benefit or savings, if any, resulting from the violation, and other
13 matters as justice may require.

14 18404. After the time for judicial review under Section 18301
15 has expired, the state board may apply to the clerk of the
16 appropriate court in the county in which the civil liability or penalty
17 was imposed, for a judgment to collect the civil liability or penalty.
18 The application, which shall include a certified copy of the state
19 board or regional board action, constitutes a sufficient showing to
20 warrant issuance of the judgment. The court clerk shall enter the
21 judgment immediately in conformity with the application. The
22 judgment so entered has the same force and effect as, and is subject
23 to all the provisions of law relating to, a judgment in a civil action,
24 and may be enforced in the same manner as any other judgment
25 of the court in which it is entered.

26 18405. (a) A person who (1) violates a cease and desist order
27 hereafter issued, reissued, or amended by a regional board or the
28 state board pursuant to this division, or (2) in violation of a water
29 recycling permit or other order or prohibition issued, reissued, or
30 amended by a regional board or the state board pursuant to this
31 division, causes or permits recycled water to be used except in
32 accordance with a water recycling permit or other actions or
33 provisions of this division, including overflow of recycled water
34 from an impoundment that does not constitute storm-induced
35 overflow as defined in this division, shall be liable civilly, and
36 remedies may be proposed, in accordance with subdivision (c) or
37 (d).

38 (b) A person shall not be liable under subdivision (a) if the
39 release is caused solely by any one or combination of the following:

40 (1) An act of war.

1 (2) An unanticipated grave natural disaster or other natural
2 phenomenon of an exceptional, inevitable, and irresistible
3 character, the effects of which could not have been prevented or
4 avoided by the exercise of due care or foresight.

5 (3) Negligence on the part of the state, the United States, or any
6 department or agency thereof. However, this paragraph shall not
7 be interpreted to provide the state, the United States, or any
8 department or agency thereof a defense to liability for any release
9 caused by its own negligence.

10 (4) An intentional act of a third party, the effects of which could
11 not have been prevented or avoided by the exercise of due care or
12 foresight.

13 (5) Any other circumstance or event that causes the release
14 despite the exercise of every reasonable precaution to prevent or
15 mitigate the release.

16 (c) The court may impose civil liability either on a daily basis
17 or on a per gallon basis, but not on both.

18 (1) The civil liability on a daily basis shall not exceed fifteen
19 thousand dollars (\$15,000) for each day the violation occurs.

20 (2) The civil liability on a per gallon basis shall not exceed
21 twenty dollars (\$20) for each gallon of recycled water released.

22 (d) The state board or a regional board may impose civil liability
23 administratively pursuant to Section 18401 either on a daily basis
24 or on a per gallon basis, but not on both.

25 (1) The civil liability on a daily basis shall not exceed five
26 thousand dollars (\$5,000) for each day the violation occurs.

27 (A) When there is a release, and a cease and desist order is
28 issued that requires cleanup, except as provided in subdivision (e),
29 the civil liability shall not be less than five hundred dollars (\$500)
30 for each day in which the release occurs and for each day the cease
31 and desist order is violated.

32 (B) When there is no release, but an order issued by the regional
33 board is violated, except as provided in subdivision (e), the civil
34 liability shall not be less than one hundred dollars (\$100) for each
35 day in which the violation occurs.

36 (2) The civil liability on a per gallon basis shall not exceed ten
37 dollars (\$10) for each gallon of recycled water released.

38 (e) A regional board shall not administratively impose civil
39 liability in accordance with paragraph (1) of subdivision (d) in an
40 amount less than the minimum amount specified, unless the

1 regional board makes express findings setting forth the reasons
2 for its action based upon the specific factors required to be
3 considered pursuant to Section 18403.

4 (f) The Attorney General, upon request of a regional board or
5 the state board, shall petition the superior court to impose, assess,
6 and recover the sums. Except in the case of a violation of a cease
7 and desist order, a regional board or the state board shall make the
8 request only after a hearing, with due notice of the hearing given
9 to all affected persons. In determining the amount to be imposed,
10 assessed, or recovered, the court shall be subject to Section 18406.

11 (g) A person who incurs any liability established under this
12 section shall be entitled to contribution for that liability from a
13 third party, in an action in the superior court and upon proof that
14 the release was caused in whole or in part by an act or omission
15 of the third party, to the extent that the release is caused by the act
16 or omission of the third party, in accordance with the principles
17 of comparative fault.

18 (h) (1) The Legislature hereby establishes the Water Recycling
19 Research Fund.

20 (2) Notwithstanding any other law, all funds generated by the
21 imposition of liabilities pursuant to this section shall be deposited
22 into the Water Recycling Research Fund. These moneys shall be
23 separately accounted for, and shall be expended by the state board,
24 upon appropriation by the Legislature, to conduct or fund research
25 necessary to support the continued and safe use of recycled water
26 in the state.

27 (i) In lieu of assessing penalties pursuant to this section, the
28 state board or regional board, with the concurrence of the person
29 subject to liability in accordance with this section, may direct a
30 portion of the amount that could have been imposed as a penalty
31 to be expended on a supplemental environmental project. For
32 purposes of this subdivision, "supplemental environmental project"
33 means an environmentally beneficial project relating to water
34 quality that a person agrees to undertake, with the approval of the
35 regional board, that would not be undertaken in the absence of an
36 enforcement action under this section.

37 18406. In determining the amount of civil liability to be
38 imposed pursuant to this chapter, the superior court shall take into
39 consideration the nature, circumstance, extent, and gravity of the
40 violation or violations, whether the release is susceptible to cleanup

1 or abatement, the degree of toxicity of the release, and, with respect
2 to the violator, the ability to pay, the effect on ability to continue
3 in business, any voluntary cleanup efforts undertaken, any prior
4 history of violations, the degree of culpability, economic benefit
5 or savings, if any, resulting from the violation, and such other
6 matters as justice may require.

7 18407. If a regional board finds that recycled water is being,
8 or may be, produced, wholesaled, supplied, or used in a manner
9 that violates or will violate a water recycling permit or general
10 permit prescribed by the regional board or the state board, the
11 board may require the producer, wholesaler, supplier, or user to
12 submit for approval of the board, with modifications as it
13 determines necessary, a detailed time schedule of specific actions
14 the producer, wholesaler, supplier, or user shall take in order to
15 correct or prevent a violation of the water recycling permit or
16 general permit.

17 18408. (a) If a regional board finds that recycled water is being,
18 or may be, produced, wholesaled, supplied, or used in violation
19 of a water recycling permit or general permit for recycled water,
20 the state board or regional board, as applicable, may issue an order
21 to cease and desist and direct that those persons not complying
22 with the water recycling permit or general permit for recycled
23 water comply immediately, comply in accordance with a time
24 schedule set by the board, or take appropriate remedial or
25 preventive action. Cease and desist orders may be issued directly
26 by a board, after notice and hearing.

27 (b) Cease and desist orders shall become effective and final
28 upon issuance. Copies shall be served immediately by personal
29 service or by registered mail upon the person being charged with
30 the violation of the requirements and upon other affected persons
31 who appeared at the hearing and requested a copy.

32 18409. (a) If the regional board determines there is a threatened
33 or continuing violation of any cease and desist order, the regional
34 board may issue an order establishing a time schedule for
35 compliance and prescribing a civil penalty which shall become
36 due if compliance is not achieved in accordance with that time
37 schedule.

38 (b) The amount of the civil penalty shall be based upon the
39 amount reasonably necessary to achieve compliance, and may not
40 include any amount intended to punish or redress previous

1 violations. The amount of the penalty may not exceed ten thousand
2 dollars (\$10,000) for each day in which the violation occurs.

3 (c) Any person who fails to achieve compliance in accordance
4 with the schedule established in an order issued pursuant to
5 subdivision (a) shall be liable civilly in an amount not to exceed
6 the amount prescribed by the order. The regional board may impose
7 the penalty administratively in accordance with this chapter. If the
8 regional board imposes the penalty in an amount less than the
9 amount prescribed in the order issued pursuant to subdivision (a),
10 the regional board shall make express findings setting forth the
11 reasons for its action.

12 (d) The state board may exercise the powers of a regional board
13 under this section if the violation or threatened violation involves
14 requirements prescribed by an order issued by the state board.

15 (e) Funds collected pursuant to this section shall be deposited
16 in the State Water Pollution Cleanup and Abatement Account.

17 (f) Civil liability may be imposed pursuant to this section only
18 if civil liability is not imposed pursuant to Section 18405.

19 18410. (a) If the State Department of Public Health or a local
20 health officer finds that a contamination of potable water supplies
21 exists as a result of the use of recycled water, the department or
22 local health officer shall order the contamination abated in
23 accordance with the procedure provided for in Chapter 6
24 (commencing with Section 5400) of Part 3 of Division 5 of the
25 Health and Safety Code.

26 (b) The use of recycled water in accordance with the uniform
27 water recycling criteria established pursuant to Section 18020, and
28 drinking water criteria established pursuant to Section 18031, for
29 the purpose of this section, ~~does~~ *is presumed* not to cause,
30 constitute, or contribute to, any form of contamination. If new
31 information becomes available or circumstances materially change,
32 the regional board may reopen, revise, and reissue the water
33 recycling permit.

34
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36

37 18450. The department may assist local agencies and public
38 utilities providing water service in applying for, and in obtaining
39 approval of, federal and state funding and permits for cost-effective

1 water recycling projects and shall confer and cooperate with the
2 state board during the application and approval process.

3 18451. To implement the policy declarations of this division,
4 the state board is authorized to provide loans for the development
5 of water recycling facilities, or for studies and investigations in
6 connection with water recycling, pursuant to the provisions of
7 Chapter 6 (commencing with Section 13400) of Division 7.

8 18452. In administering any statewide program of financial
9 assistance for water pollution or water quality control delegated
10 to it pursuant to Chapter 6 (commencing with Section 13400) of
11 Division 7, the state board shall give added consideration to water
12 quality control facilities providing optimum water recycling and
13 use of recycled water.

14 ~~SEC. 26:~~

15 *SEC. 25.* No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.